

1 EDMUND G. BROWN JR.  
Attorney General of the State of California  
2 DANE R. GILLETTE  
Chief Assistant Attorney General  
3 JULIE L. GARLAND  
Senior Assistant Attorney General  
4 JENNIFER A. NEILL  
Supervising Deputy Attorney General  
5 AMANDA J. MURRAY, State Bar No. 223829  
Deputy Attorney General  
6 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
7 Telephone: (415) 703-5741  
Fax: (415) 703-5843  
8 Email: Amanda.Murray@doj.ca.gov

9 Attorneys for Respondent

10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 **ALFONSO CARRANZA,**

15  
16 Petitioner,

17 v.

18 **ROBERT AYERS, JR., Warden,**

19  
20 Respondent.

C 08-2511 PJH

**ANSWER TO PETITION FOR  
WRIT OF HABEAS CORPUS;  
MEMORANDUM OF POINTS  
AND AUTHORITIES**

Judge: The Honorable  
Phyllis J. Hamilton

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

	<b>Page</b>
MEMORANDUM OF POINTS AND AUTHORITIES	5
INTRODUCTION	5
ARGUMENT	5
I.    CARRANZA HAS NOT SHOWN THAT HE IS ENTITLED TO RELIEF UNDER AEDPA.	5
A.    Carranza Has Not Shown that the State Court Decisions Was Contrary to Clearly Established Federal Law.	5
B.    Carranza Has Not Shown that the State Courts Unreasonably Applied Clearly Established Federal Law.	7
C.    Carranza Has Not Shown that the State Court Decisions Were Based on an Unreasonable Determination of the Facts.	8
II.   CARRANZA HAS NOT SHOWN THAT THE BOARD FAILED TO PROPERLY CONSIDER THE STATUTORY AND REGULATORY CRITERIA FOR SETTING A PAROLE RELEASE DATE.	9
CONCLUSION	11

## TABLE OF AUTHORITIES

	Page
<b>Cases</b>	
<i>Baja v. Ducharme</i> 187 F.3d 1075 (9th Cir. 1999)	4
<i>Benny v. U.S. Parole Comm'n</i> 295 F.3d 977 (9th Cir. 2002)	4
<i>Biggs v. Terhune</i> 334 F.3d 910 (9th Cir. 2003)	6, 7
<i>Carey v. Musladin</i> , ___ U.S. ___ 127 S. Ct. 649 (2007)	5, 6
<i>Crater v. Galaza</i> 491 F.3d 1119 (9th Cir. 2007)	6, 7
<i>Duhaime v. Ducharme</i> 200 F.3d 597 (9th Cir. 2000)	7
<i>Earp v. Ornoski</i> 431 F.3d 1158 (9th Cir. 2005)	7
<i>Foote v. Del Papa</i> 492 F.3d 1026 (9th Cir. 2007)	6
<i>Greenholtz v. Inmates of Neb. Penal &amp; Corr. Complex</i> 442 U.S. 1 (1979)	2, 3, 5-8
<i>Gutierrez v. Griggs</i> 695 F.2d 1195 (1983)	10
<i>Hayward v. Marshall</i> 527 F.3d 797 (9th Cir. 2008)	3
<i>In re Dannenberg</i> 34 Cal. 4th 1061 (2005)	3
<i>In re Rosenkrantz</i> 29 Cal. 4th 616 (2002)	8
<i>Irons v. Carey</i> 505 F.3d 846 (9th Cir. 2007)	6
<i>Johnson v. Zerbst</i> 304 U.S. 458 (1938)	10
<i>Langford v. Day</i> 110 F.3d 1380 (9th Cir. 1984)	4

## TABLE OF AUTHORITIES (continued)

	Page
1	
2 <i>Lockyer v. Andrade</i>	
3 538 U.S. 63 (2003)	5, 7
4 <i>Middleton v. Cupp</i>	
5 768 F.2d 1083 (9th Cir. 1985)	10
6 <i>Nguyen v. Garcia</i>	
7 477 F.3d 716 (9th Cir. 2007)	6
8 <i>Pulley v. Harris</i>	
9 465 U.S. 37 (1984)	4, 10
10 <i>Rose v. Hodges</i>	
11 423 U.S. 19 (1975)	10
12 <i>Sandin v. Connor</i>	
13 515 U.S. 472 (1995)	3, 6
14 <i>Sass v. California Board of Prison Terms</i>	
15 461 F.3d 1123 (9th Cir. 2006)	3, 6
16 <i>Schriro v. Landrigan</i>	
17 ___ U.S. ___, 127 S. Ct. 1933 (2007)	6
18 <i>Superintendent v. Hill</i>	
19 472 U.S. 445 (1985)	6, 8
20 <i>Wilkinson v. Austin</i>	
21 545 U.S. 209 (2005)	3, 6
22 <i>Williams v. Taylor</i>	
23 529 U.S. 362 (2000)	5, 7
24 <i>Wright v. Van Patten</i>	
25 ___ U.S. ___, 128 S. Ct. 743 (2008)	6
26 <i>Ylst v. Nunnemaker</i>	
27 501 U.S. 797 (1991)	8
28	
<b>Statutes</b>	
United States Code, Title 28	
§ 2254	2
§ 2254(a)	10
§ 2254(d)	7
§ 2254(d)(1-2)	5, 7, 8
§ 2254(e)(1)	8



**TABLE OF AUTHORITIES (continued)**

	<b>Page</b>
1	
2 California Code of Regulations, Title 15	
3     § 2407	11
4     § 2402	10
5     § 2402 (a)	10
6     § 2281 (a)	10
7	
8 California Penal Code	
9     § 3041, subd. (a)	10
10     § 3042	10
11     § 3043	10
12	
13 United States Code, Title 28	
14     § 2244(d)(1)	2
15	
16 <b>Other Authorities</b>	
17	
18 Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)	5-7, 10
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

1 EDMUND G. BROWN JR.  
Attorney General of the State of California  
2 DANE R. GILLETTE  
Chief Assistant Attorney General  
3 JULIE L. GARLAND  
Senior Assistant Attorney General  
4 JENNIFER A. NEILL  
Supervising Deputy Attorney General  
5 AMANDA J. MURRAY, State Bar No. 223829  
Deputy Attorney General  
6 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
7 Telephone: (415) 703-5741  
Fax: (415) 703-5843  
8 Email: Amanda.Murray@doj.ca.gov

9 Attorneys for Respondent

10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 **ALFONSO CARRANZA,**

Petitioner,

15  
16 v.

17 **ROBERT AYERS, JR., Warden,**

18  
19 Respondent.

C 08-2511 PJH

**ANSWER TO PETITION FOR  
WRIT OF HABEAS CORPUS;  
MEMORANDUM OF POINTS  
AND AUTHORITIES**

Judge: The Honorable  
Phyllis J. Hamilton

20 As an Answer to the Petition for Writ of Habeas Corpus filed by inmate Alfonso Carranza,  
21 Respondent, admits, alleges, and denies that:

22 1. Carranza is in the lawful custody of the California Department of Corrections and  
23 Rehabilitation following his 1989 conviction for second degree murder, attempted murder, and  
24 attempted manslaughter with use of a firearm. (Pet. at 3.) Carranza is serving a sentence of  
25 seventeen years to life in prison. (*Id.*)

26 2. In 2006, Carranza filed a petition for writ of habeas corpus in Los Angeles County  
27 Superior Court, alleging that the Board of Parole Hearings' 2006 decision denying him parole  
28 was arbitrary and capricious, and violated his due process rights. (Ex. A, Super. Ct. Pet.; Ex. B,

Answer and Supporting Memorandum of Points and Authorities

*Carranza v. Ayers*  
C 08-2511 PJH

1 Super. Ct. Order.) Carranza also alleged that the Board failed to properly apply the statutory and  
 2 regulatory criteria in denying him parole, that the Board's reliance on multiple victims as a basis  
 3 his four-year parole denial violated his double jeopardy rights, and that he was denied a fair  
 4 hearing because the Board relied on opposition from the district attorney and the victims'  
 5 families. The superior court denied the petition, finding that "the record contains 'some  
 6 evidence' to support the Board's finding that Petitioner is unsuitable for parole." (Ex. B at 1.)

7 3. Carranza then raised the same claims in petitions to the California Court of Appeal and  
 8 the California Supreme Court. (Ex. C, Ct. App. Pet.; Ex. D, Ct. App. Order; Ex. E, Sup. Ct. Pet;  
 9 Ex. F, Sup. Ct. Order.) Both petitions were summarily denied. (Ex. D; Ex. F.)

10 4. Respondent admits that Carranza exhausted his state court remedies regarding his  
 11 claims that the Board's 2006 decision denying him parole was arbitrary and capricious, that it  
 12 violated his due process rights, that the Board failed to properly apply the statutory and  
 13 regulatory criteria, that the Board's reliance on multiple victims as a basis for his four-year parole  
 14 denial violated his double jeopardy rights, and that he was denied a fair hearing because the  
 15 Board relied on opposition from the district attorney and the victims' families. Respondent  
 16 denies that Carranza has exhausted his claims to the extent they are interpreted more broadly to  
 17 encompass any systematic issues beyond this claim.

18 5. Respondent admits that the Petition is timely under 28 U.S.C. § 2244(d)(1).  
 19 Respondent admits that the Petition is not subject to any other procedural bar.

20 6. Respondent denies that Carranza is entitled to federal habeas relief under 28 U.S.C. §  
 21 2254 because the state court decisions were not contrary to, or an unreasonable application of  
 22 clearly established federal law as determined by the United States Supreme Court, or based on an  
 23 unreasonable determination of the facts.

24 7. Respondent denies that Carranza has a federally protected liberty interest in parole and,  
 25 therefore, alleges that he has not stated a federal question invoking this court's jurisdiction.  
 26 The Supreme Court has not clarified the methodology for determining whether a state has created  
 27 a federally protected liberty interest in parole. *See Greenholtz v. Inmates of Neb. Penal & Corr.*  
 28 *Complex*, 442 U.S. 1, 12 (1979) (liberty interest in conditional parole release date created by

1 unique structure and language of state parole statute); *Sandin v. Connor*, 515 U.S. 472, 484  
 2 (1995) (federal liberty interest in correctional setting created only when issue creates an “atypical  
 3 or significant hardship” compared with ordinary prison life); *Wilkinson v. Austin*, 545 U.S. 209,  
 4 229 (2005) (*Sandin* abrogated *Greenholtz*’s methodology for establishing the liberty interest).  
 5 California’s parole statute does not contain mandatory language giving rise to a protected liberty  
 6 interest in parole under the mandatory-language approach announced in *Greenholtz*. *In re*  
 7 *Dannenberg*, 34 Cal. 4th 1061, 1087 (2005) (California’s parole scheme is a two-step process  
 8 that does not impose a mandatory duty to grant life inmates parole before a suitability finding).  
 9 And continued confinement under an indeterminate life sentence does not impose an “atypical or  
 10 significant hardship” under *Sandin* since a parole denial does not alter an inmate’s sentence,  
 11 impose a new condition of confinement, or otherwise restrict his liberty while he serves his  
 12 sentence. Thus, Respondent asserts that Carranza does not have a federal liberty interest in  
 13 parole under either *Greenholtz* or *Sandin*. Respondent acknowledges that in *Sass v. California*  
 14 *Board of Prison Terms*, 461 F.3d 1123, 1128 (9th Cir. 2006) the Ninth Circuit held that  
 15 California’s parole statute creates a federal liberty interest in parole under the mandatory-  
 16 language analysis of *Greenholtz*, but preserves the argument, which is pending en banc in  
 17 *Hayward v. Marshall*, 527 F.3d 797 (9th Cir. 2008).

18 8. Even if Carranza has a federal liberty interest in parole, he received all due process to  
 19 which he is entitled under clearly established federal law because he was provided with an  
 20 opportunity to be heard and a statement of reasons for the Board’s decision. *Greenholtz*, 442  
 21 U.S. at 16.

22 9. Respondent denies that the some-evidence test is clearly established federal law in the  
 23 parole context.

24 10. Respondent denies that the Board’s decision denying Carranza parole was arbitrary and  
 25 capricious, or that it violated his due process rights.

26 11. Respondent denies that the Board failed to properly apply the statutory and regulatory  
 27 criteria in determining his parole suitability.

28 12. Respondent denies that the Board’s reliance on multiple victims as a basis for denying

1 him parole for four years violated Carranza's double jeopardy rights.

2 13. Respondent denies that Carranza was denied a fair hearing because the Board relied on  
3 opposition from the district attorney and the victims' families in denying him parole.

4 14. Respondent denies that the Board has a no-parole, or predetermined policy to deny  
5 parole.

6 15. Respondent alleges that Carranza fails to present a federal question when he contends  
7 that the state courts improperly applied or interpreted state law. Alleged errors in the application  
8 of state law are not cognizable in federal habeas corpus. *Pulley v. Harris*, 465 U.S. 37, 41  
9 (1984); *Langford v. Day*, 110 F.3d 1380, 1389 (9th Cir. 1984).

10 16. Respondent submits that an evidentiary hearing is not necessary because the claims  
11 can be resolved on the existing state court record. *Baja v. Ducharme*, 187 F.3d 1075, 1078 (9th  
12 Cir. 1999).

13 17. Respondent denies that Carranza is entitled to release. Carranza's remedy is limited to  
14 the process that is due, which is a new review by the Board comporting with due process. *See*  
15 *e.g. Benny v. U.S. Parole Comm'n*, 295 F.3d 977, 984-85 (9th Cir. 2002) (a liberty interest in  
16 parole is limited by the Board's exercise of discretion, and a due process error does not entitle an  
17 inmate to a favorable parole decision).

18 18. Carranza fails to state or establish any grounds for habeas corpus relief.

19 19. Except as expressly admitted in this Answer, Respondent denies the allegations of the  
20 Petition.

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

## MEMORANDUM OF POINTS AND AUTHORITIES

### INTRODUCTION

Carranza claims that the Board's 2006 decision finding him unsuitable for parole violated his due process rights. But Carranza merely alleges a disagreement with the Board's decision, and fails to establish that the state court decisions denying his due process claims were contrary to, or an unreasonable application of clearly established federal law as determined by the United States Supreme Court, or were based on an unreasonable determination of the facts. Thus, there are no grounds for federal habeas relief.

### ARGUMENT

#### I.

#### **CARRANZA HAS NOT SHOWN THAT HE IS ENTITLED TO RELIEF UNDER AEDPA.**

Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) a federal court may not grant a writ of habeas corpus unless the state court's adjudication was either: 1) "contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States;" or 2) "based on an unreasonable determination of the facts in light of the evidence presented at the State Court proceeding." 28 U.S.C. § 2254(d)(1-2) (2000). Carranza has not demonstrated that he is entitled to relief under this standard.

#### **A. Carranza Has Not Shown that the State Court Decisions Was Contrary to Clearly Established Federal Law.**

As a threshold matter, the Court must decide what, if any, "clearly established Federal law" applies. *Lockyer v. Andrade*, 538 U.S. 63, 71 (2003). In making this determination, the Court may look only to the holdings of the United States Supreme Court governing at the time of the state court's adjudication. *Carey v. Musladin*, \_\_\_ U.S. \_\_\_, 127 S. Ct. 649, 653 (2007) (quoting *Williams v. Taylor*, 529 U.S. 362 (2000)). The only case in which the Supreme Court has addressed the process due in state parole proceedings is *Greenholtz*. *Greenholtz*, 442 U.S. 1. The Supreme Court there held that due process is satisfied when the state provides an inmate an

1 opportunity to be heard and a statement of the reasons for the parole decision. *Id.* at 16. “The  
2 Constitution does not require more.” *Id.*<sup>1/</sup> No other Supreme Court holdings require more at a  
3 parole hearing.

4 Carranza does not contest that he received the *Greenholtz* protections. (*See generally* Pet.)  
5 Because *Greenholtz* was satisfied and *Greenholtz* is the only Supreme Court authority regarding  
6 an inmate’s due process rights during parole proceedings, the state court decision upholding the  
7 Board’s decision was not contrary to clearly established federal law. Thus, the Petition should be  
8 denied.

9 Although the Ninth Circuit has held that the Board’s decision must be supported by some  
10 evidence, there is no clearly established federal law applying this standard to parole decisions.  
11 The Supreme Court has held that under AEDPA a test announced in one context is not clearly  
12 established federal law when applied to another context. *Wright v. Van Patten*, \_\_\_ U.S. \_\_\_ 128  
13 S. Ct. 743, 746-47 (2008); *Schriro v. Landrigan*, \_\_\_ U.S. \_\_\_, 127 S. Ct. 1933 (2007); *Musladin*,  
14 127 S. Ct. at 652-54; *see also*, *Foote v. Del Papa*, 492 F.3d 1026, 1029 (9th Cir. 2007); *Nguyen*  
15 *v. Garcia*, 477 F.3d 716, 718, 727 (9th Cir. 2007); *Crater v. Galaza*, 491 F.3d 1119, 1122 (9th  
16 Cir. 2007). The Supreme Court developed the some-evidence standard in the context of a prison  
17 disciplinary hearing, *Superintendent v. Hill*, 472 U.S. 445, 457 (1985), which is a fundamentally  
18 different context than a parole proceeding. Because the tests and standards developed by the  
19 Supreme Court in one context cannot be transferred to distinguishable factual circumstances for  
20 AEDPA purposes, it is not appropriate to apply the some-evidence standard of judicial review to  
21 parole decisions.

22 Thus, the Ninth Circuit’s application of the some-evidence standard to parole decisions is  
23 improper under AEDPA. *See, e.g., Biggs v. Terhune*, 334 F.3d 910 (9th Cir. 2003); *Sass*, 461  
24 F.3d at 1128; *Irons v. Carey*, 505 F.3d 846, 851 (9th Cir. 2007). Moreover, AEDPA does not

---

26 1. The Supreme Court has cited *Greenholtz* approvingly for the proposition that the “level  
27 of process due for inmates being considered for release on parole includes an opportunity to be heard  
28 and notice of any adverse decision” and noted that, although *Sandin* abrogated *Greenholtz*’s  
methodology for establishing the liberty interest, *Greenholtz* remained “instructive for [its]  
discussion of the appropriate level of procedural safeguards.” *Austin*, 545 U.S. at 229.



1 permit relief based on circuit caselaw. *Crater*, 491 F.3d at 1123, 1126 (§ 2254(d)(1) renders  
 2 decisions by lower courts non-dispositive for habeas appeals); *Earp v. Ornoski*, 431 F.3d 1158,  
 3 1182 (9th Cir. 2005) (“Circuit court precedent is relevant only to the extent it clarifies what  
 4 constitutes clearly established law.” . . . “Circuit precedent derived from an extension of a  
 5 Supreme Court decision is not clearly established federal law as determined by the Supreme  
 6 Court.”); *Duhaime v. Ducharme*, 200 F.3d 597, 600-01 (9th Cir. 2000). Therefore, the Ninth  
 7 Circuit’s use of the some-evidence standard is not clearly established federal law and is not  
 8 binding on this Court.

9 Similarly, Carranza’s related claim that the Board’s reliance on the immutable factor of  
 10 his commitment offense violates due process finds no support in Supreme Court precedent.  
 11 Although the Ninth Circuit has suggested that this might amount to an additional due process  
 12 claim, *Biggs*, 334 F.3d at 917, because there is no clearly established federal law precluding  
 13 reliance on unchanging factors federal habeas relief is not available. 28 U.S.C. § 2254(d).

14 Moreover, Carranza’s claim that the Board’s decision was arbitrary and capricious fails  
 15 because the Board and the state courts gave him individualized consideration and evaluated the  
 16 positive and negative factors in considering his eligibility for parole. (Ex. B.)

17 In sum, the only clearly established federal law setting forth the process due in the parole  
 18 context is *Greenholtz*. Carranza does not allege that he failed to receive these protections.  
 19 Therefore, Carranza has not shown that the state court decisions denying habeas relief were  
 20 contrary to clearly established federal law.

21 **B. Carranza Has Not Shown that the State Courts Unreasonably**  
 22 **Applied Clearly Established Federal Law.**

23 Habeas relief may only be granted based on AEDPA’s unreasonable-application clause  
 24 where the state court identifies the correct governing legal rule from Supreme Court cases but  
 25 unreasonably applies it to the facts of the particular state case. *Williams*, 529 U.S. at 406. The  
 26 petitioner must do more than merely establish that the state court was wrong or erroneous. *Id.* at  
 27 410; *Lockyer*, 538 U.S. at 75. Respondent recognizes that the Ninth Circuit applies the some-  
 28 evidence standard as clearly established federal law, but even accepting that premise, Carranza is



1 not entitled to federal habeas relief. Indeed, the California Supreme Court has adopted *Hill's*  
 2 some-evidence test as the judicial standard to be used in evaluating parole decisions, *In re*  
 3 *Rosenkrantz*, 29 Cal. 4th 616 (2002), and Carranza has not shown that the state courts  
 4 unreasonably applied the standard.

5 Here, the superior applied the some-evidence test and issued a reasoned decision finding  
 6 that Carranza's commitment offense and the trivial motive for his crime was some evidence to  
 7 support denying him parole. *Ylst v. Nunnemaker*, 501 U.S. 797, 803-04 (1991) (federal court  
 8 looks to the last reasoned state court decision as the basis for the state court judgment); (Ex. B at  
 9 1-2.) The court also noted that the Board properly considered Carranza's prior offenses, his  
 10 substance abuse problems, his limited programming, his failure (until recently) to participate in  
 11 substance abuse-related self-help programs, his parole plans, and opposition from the district  
 12 attorney and victims' families. (*Id.*)

13 Although Carranza invites the Court to re examine the facts of his case and re-weigh the  
 14 evidence presented to the Board, there is no Supreme Court law permitting this degree of judicial  
 15 intrusion. Indeed, the Supreme Court has recognized the difficult and sensitive task faced by the  
 16 Board in evaluating the advisability of parole release. *Greenholtz*, 442 U.S. at 9-10. Thus,  
 17 contrary to Carranza's belief that he should be paroled, the Supreme Court has stated that in  
 18 parole release, there is no set of facts which, if shown, mandate a decision favorable to the  
 19 inmate. *Id.* Thus, Carranza has not demonstrated that the state court reasonably applied the  
 20 minimal some-evidence test. *Hill*, 472 U.S. at 457.

21 **C. Carranza Has Not Shown that the State Court Decisions Were**  
 22 **Based on an Unreasonable Determination of the Facts.**

23 Under § 2254(d)(2), habeas corpus can not be granted unless the state courts' decisions  
 24 were based on an unreasonable determination of the facts in light of the evidence presented in the  
 25 state court. The state court's factual determinations are presumed to be correct, and the petitioner  
 26 has the burden of rebutting that presumption by clear and convincing evidence. 28 U.S.C. §  
 27 2254(e)(1).

28 Although Carranza alleges that the Board's decision is not supported by the evidence, he

1 does not show that the state court made factual errors. Specifically, the court found that some  
2 evidence supported the Board's finding that Carranza's murder offense showed an exceptionally  
3 callous disregard for human suffering in that Carranza fatally shot one victim and seriously  
4 injured another when Carranza shot him in the neck at close range and continued shooting at him  
5 as he fled, hitting him in leg. (Ex. B at 1-2.) The court noted that Carranza then fled the crime,  
6 leaving both victims to die. (*Id.* at 2.)

7 The court also found that there was some evidence that the motive for Carranza's crime  
8 was trivial in relationship to the offense because a minor confrontation regarding who was next  
9 in line to play pool, was the impetus for Carranza shooting at three men, killing one and severely  
10 injuring another. (Ex. B at 2.) Further, the court found that because of these facts, the Board's  
11 finding that there were multiple victims was supported by some evidence. (*Id.*)

12 Finally, the court found that the Board properly considered Carranza's prior offenses, his  
13 substance abuse problems, his limited programming, his failure (until recently) to participate in a  
14 substance abuse-related self-help program, his parole plans, and opposition from the district  
15 attorney and the victims' families. (Ex. B at 2.) Likewise, the court found that the Board was  
16 justified in denying Carranza parole for four years based on Carranza's commitment offense, his  
17 trivial motive for the crime, and his failure to participate in substance abuse-related self-help  
18 programs or vocation programs until recently. (*Id.*)

19 Thus, for the foregoing reasons, Carranza has not alleged by clear and convincing  
20 evidence that the factual determinations are incorrect. Carranza simply disagrees with the weight  
21 the Board assigned to the evidence. This disagreement does not entitle Carranza to federal  
22 habeas relief.

## 23 II.

### 24 **CARRANZA HAS NOT SHOWN THAT THE BOARD FAILED TO** 25 **PROPERLY CONSIDER THE STATUTORY AND REGULATORY** 26 **CRITERIA FOR SETTING A PAROLE RELEASE DATE.**

27 Carranza alleges that the Board failed to apply the statutory and regulatory criteria for  
28 setting a parole release date by failing to follow the Board's regulations, by relying on multiple  
victims to deny parole for four years in violation of his double jeopardy rights, and by denying

1 him a fair hearing by relying on opposition from the district attorney and victims' families. Yet  
2 Carranza fails to allege a federal claim entitling him to federal habeas relief.

3 First, Carranza fails to allege a federal claim to the extent his allegations are based on a  
4 construction of the state statutes and regulations regarding the manner in which the parole  
5 authority determines suitability for parole. Accordingly, his claims are predicated on state law  
6 and not cognizable in federal habeas corpus. 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19,  
7 21 (1975); *Gutierrez v. Griggs*, 695 F.2d 1195, 1197-98 (1983). Moreover, even if Carranza is  
8 alleging that the state court erroneously rejected these claims, a federal court may not challenge a  
9 state court's interpretation or application of state law, *Middleton v. Cupp*, 768 F.2d 1083, 1085  
10 (9th Cir. 1985), or grant relief "on the basis of a perceived error of state law." *Pulley* 465 U.S. at  
11 41.

12 Moreover, Carranza's allegation that the Board failed to set a parole release date based on  
13 the statutory and regulatory criteria fails because there is no United States Supreme Court law  
14 mandating that a release date be calculated before an inmate is found suitable for parole. Indeed,  
15 while the Board's regulations set forth a matrix of factors used in setting a parole date (Cal. Code  
16 Regs., tit. 15, § 2402), they also specify that the matrix is invoked only after a life inmate is  
17 "found suitable for parole." (*Id.* at § 2402 (a), § 2281 (a); *see also* Pen. Code, § 3041, subd. (a).)  
18 Similarly, there is no United States Supreme Court law prohibiting the Board from considering  
19 opposition from the district attorney or the victim's next of kin. In fact, California law requires  
20 it. Cal. Penal Code, §§ 3042, 3043. Accordingly, Carranza cannot state a claim for relief under  
21 AEDPA.

22 Finally, Carranza has not shown any evidence that the Board's decision to rely on  
23 multiple victims to deny Carranza parole for four years violated his double jeopardy rights. *See*  
24 *Johnson v. Zerbst*, 304 U.S. 458, 468-69 (1938) (the petitioner bears the burden of proving his  
25 allegations in a habeas corpus proceeding). Again, United States Supreme Court law does not  
26 prohibit the Board from considering whether multiple victims were injured or killed as part of the  
27 commitment offense in assessing a prisoner's eligibility for parole. Indeed, the state court  
28 concluded that there was some evidence supporting the Board's finding that there were multiple

1 victims because Carranza fatally shot one victim and seriously injured another. (Ex. B.) And,  
2 contrary to Carranza's argument, the Board may adjust a prisoner's sentence for other offenses  
3 only after he has been found suitable for parole. (Cal. Code Regs., tit. 15, § 2407.) Thus,  
4 because Carranza fails to state a claim for federal habeas relief, the Petition must be denied.

5 **CONCLUSION**

6 Carranza has not demonstrated that the state court decisions denying habeas relief were  
7 contrary to, or an unreasonable application of, United States Supreme Court authority, or based  
8 on an unreasonable determination of the facts. Thus, the Petition should be denied.

9 Dated: September 2, 2008

Respectfully submitted,

10 EDMUND G. BROWN JR.  
11 Attorney General of the State of California

12 DANE R. GILLETTE  
13 Chief Assistant Attorney General

14 JULIE L. GARLAND  
15 Senior Assistant Attorney General

16 JENNIFER A. NEILL  
17 Supervising Deputy Attorney General

18 AMANDA J. MURRAY  
19 Deputy Attorney General  
Attorneys for Respondent

20 20120454.wpd  
21 SF2008401810

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Carranza v. Ayers**

No.: **C 08-2511 PJH**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **September 3, 2008**, I served the attached

**ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS;  
MEMORANDUM OF POINTS AND AUTHORITIES**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**Alfonso Carranza, E-30803  
San Quentin State Prison  
1 Main Street  
3-N-96L  
San Quentin, CA 94964  
In Pro Per**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **September 3, 2008**, at San Francisco, California.

M.M. Argarin  
\_\_\_\_\_  
Declarant

*M.M. Argarin*  
\_\_\_\_\_  
Signature

**EXHIBIT A**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES****DEPT 100**

Date: AUGUST 7, 2007  
 Honorable: PETER ESPINOZA  
 NONE

Judge JOSEPH M. PULIDO  
 Bailiff NONE

Deputy Clerk  
 Reporter

(Parties and Counsel checked if present)

BH004213

In re,  
 ALFONSO CARRANZA,  
 Petitioner,

Counsel for Petitioner:

On Habeas Corpus

Counsel for Respondent:

Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS

The Court has read and considered the Petition for Writ of Habeas Corpus filed on August 18, 2006 by Petitioner. Having independently reviewed the record, giving deference to the broad discretion of the Board of Parole Hearings ("Board") in parole matters, the Court concludes that the record contains "some evidence" to support the Board's finding that Petitioner is unsuitable for parole. See Cal. Code Reg. Tit. 15, §2402; *In re Rosenkrantz* (2002) 29 Cal.4<sup>th</sup> 616, 667.

Petitioner was received in the Department of Corrections in 1989 after convictions for murder in the second-degree, attempted murder, and attempted manslaughter with the use of a firearm. He was sentenced to 17 years to life, plus a consecutive 14 years. His minimum parole eligibility date was March 15, 2007. The record reflects that on November 30, 1985, Petitioner argued with Raul Munoz at a bar over who had the next game of pool. Petitioner threatened Raul and the two engaged in a shoving match. Raul then left the bar and picked up his brothers, Juan and Pedro. The three brothers returned to the bar to confront Petitioner. Petitioner's friend attempted to hit Raul, but was stopped by Pedro. The owner of the bar threatened to kick the entire group out if they did not stop fighting, so they separated and the Munoz brothers began to leave. As they were leaving, Petitioner's friend told Raul that he wanted to speak to him outside. When they reached the door, Petitioner pointed a gun at Raul and shot him in the neck from approximately 12 inches away. Raul began to run away and Petitioner shot him again in the leg. Petitioner then turned the gun on Juan, who was standing nearby in the parking lot and shot him once, killing him. Finally, Petitioner shot two times at Pedro as he ran away. Pedro was not hit by either shot. Petitioner and his friend then fled the scene and Petitioner later moved out of California. He began serving his sentence for this offense in 1989, after serving another sentence in another state.

The Board found Petitioner unsuitable for parole after a parole consideration hearing held on April 19, 2006. Petitioner was denied parole for four years. The Board concluded that Petitioner was unsuitable for parole and would pose an unreasonable risk of danger to society and a threat to public safety. The Board based its decision primarily upon the commitment offense.

The Court finds that there is some evidence to support the Board's finding that Petitioner's offense demonstrated an exceptionally callous disregard for human suffering. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(D). Petitioner shot Raul in the neck at close range and then continued shooting at him as he fled, hitting



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES****DEPT 100**

Date: AUGUST 7, 2007  
 Honorable: PETER ESPINOZA  
 NONE

Judge JOSEPH M. PULIDO  
 Bailiff NONE

Deputy Clerk  
 Reporter

(Parties and Counsel checked if present)

BH004213

In re,  
 ALFONSO CARRANZA,  
 Petitioner,

Counsel for Petitioner:

On Habeas Corpus

Counsel for Respondent:

him again in the leg. Petitioner also fatally shot Juan, although Juan was merely standing nearby. Petitioner then fled the scene, leaving each of his victims to die. These actions demonstrated an exceptionally callous disregard for human suffering.

The Court also finds that there is some evidence to support the Board's finding that Petitioner's motive was very trivial in relation to the offense. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(E). The entire altercation began with an argument over who was next in line to play pool at a bar. Although the victims did provoke Petitioner by confronting him after the initial argument, they were leaving the bar at the time he began shooting them and were no longer posing a threat. The minor confrontation was a very trivial motive for shooting at three men, killing one and severely injuring another. Because of these facts, the Court also finds that there is some evidence to support the Board's finding that there were multiple victims. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(D).

The Board also considered Petitioner's prior offenses and substance abuse problems, his limited programming; his failure, until recently, to participate in a substance abuse-related self-help program; his parole plans; and the opposition from the District Attorney and the victims' family members. While these are not factors tending to show unsuitability under Cal. Code Regs., tit. 15, §2402, subd. (c) and, therefore, may not justify a finding of unsuitability on their own, the Board may properly consider them.

Finally, the Court finds that the Board did not err in denying Petitioner parole for a period of four years. The Board must articulate reasons that justify a postponement of two to five years in a separate finding, but those reasons need not be completely different from those justifying the denial of parole. See *In re Jackson* (1985) 39 Cal.3d 464, 479. The Board indicated that Petitioner was denied parole for four years because his commitment offense involved multiple crimes against multiple victims, demonstrated an exceptionally callous disregard for human suffering, and had a trivial motive and because until recently, Petitioner has failed to participate in substance abuse-related self-help programs or vocational programs. These reasons were sufficient to justify a four-year denial.

Accordingly, the petition is denied.

The court order is signed and filed this date. The clerk is directed to give notice.



# **SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**DEPT 100**

Date: AUGUST 7, 2007  
Honorable: PETER ESPINOZA  
NONE

Judge JOSEPH M. PULIDO  
Bailiff NONE

Deputy Clerk  
Reporter

(Parties and Counsel checked if present)

BH004213

In re,  
ALFONSO CARRANZA,  
Petitioner,  
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

A true copy of this minute order is sent via U.S. Mail to the following parties:

Alfonso Carranza  
E-30803  
San Quentin State Prison  
San Quentin, California 94974

Department of Justice- State of California  
Office of the Attorney General  
110 West A Street, Suite 1100  
San Diego, California 92101  
Attn: Ms. Cynthia Lumely



THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED IS A FULL TRUE  
AND CORRECT COPY OF THE ORIGINAL DOCUMENT OF RECORD IN MY OFFICE.  
JOHN A CLARKE, CLERK OF THE SUPERIOR COURT OF  
THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES.

ATTEST: AUG 10 2007 BY: Joseph M. Pulido DEPUTY

JOSEPH M. PULIDO, S.C.C.  
233219

<b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF LOS ANGELES</b>	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street Los Angeles, CA 90012	<b>CONFORMED COPY</b>  AUG 10 2007
PLAINTIFF/PETITIONER  ALFONSO CARRANZA	LOS ANGELES SUPERIOR COURT  Joseph M. Pulido
<b>CLERK'S CERTIFICATE OF MAILING</b> CCP, § 1013(a) Cal. Rules of Court, rule 2(a)(1)	CASE NUMBER  BH004213

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

- |  |  |
|--|--|
| <input type="checkbox"/> Order Extending Time            | <input checked="" type="checkbox"/> Order re: Writ of Habeas Corpus                          |
| <input type="checkbox"/> Order to Show Cause             | <input type="checkbox"/> Order to Serve Responding Party                                     |
| <input type="checkbox"/> Order for Informal Response     | <input type="checkbox"/> Order re:   |
| <input type="checkbox"/> Order for Supplemental Pleading | <input type="checkbox"/> Copy of Petition for Writ of Habeas Corpus for the Attorney General |

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

August 10, 2007  
DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By: Joseph M. Pulido, Clerk  
Joseph M. Pulido

Alfonso Carranza  
E-30803  
San Quentin State Prison  
San Quentin, California 94974

Department of Justice- State of California  
Office of the Attorney General  
110 West A Street, Suite 1100  
San Diego, California 92101  
Attn: Ms. Cynthia Lumely

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

CENTRAL DISTRICT-CLARA SHORTRIDGE FOLTZ  
CRIMINAL JUSTICE CENTER  
210 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012



Department of Justice- State of California  
Office of the Attorney General  
110 West A Street, Suite 1100  
San Diego, California 92101  
Attn: Ms. Cynthia Lumely

9210135702 CODE



DEPT 100

Date: APRIL 19, 2007

Honorable: STEVEN R. VAN SICKLEN  
NONE

Judge J. PULIDO  
Bailiff NONE

Deputy Clerk

Reporter

(Parties and Counsel checked if present)

BH 004213

In re,  
ALFONSO CARRANZA,  
Petitioner,  
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Los Angeles Superior Court

MAY 10 2007

John A. Clarke, Executive Officer/CI

By *[Signature]*, Dep

Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS

The Court acknowledges the receipt of the petitioner's Writ of Habeas Corpus (herein "petition") on August 18, 2006.

A review of the petition reveals that the petition has not been served on the responding party. (Penal Code, § 1475) The Warden, who is the respondent, is represented in parole suitability matters by the Office of the Attorney General and must be served with any and all papers filed in this matter. (Id; See also, *In re Scott* (1994) 27 Cal. App. 4<sup>th</sup> 946; *People vs. Romero* (1994) 8 Cal. 4<sup>th</sup> 728 [custodian has a due process right to notice and an opportunity to be heard.] )

Petitioner is ordered to lodge a complete copy of the petition, along with all exhibits, and a copy of this minute order, directly to: Clara Shortridge Foltz Criminal Justice Center, Department 100, 210 West Temple Street, Los Angeles, California 90012. After receipt, the clerk will serve the Office of the Attorney General with the lodged petition. In the event petitioner fails to lodge a complete copy of the petition with this Court within 60 days of receipt of this order, the petition will be dismissed.

Furthermore, if an Order to Show Cause issues, petitioner will be required to mail an additional copy of his petition to the Court for service on counsel if one is appointed.

In light of the above, the Court extends time to rule on this matter. After a copy of the complete petition is lodged by petitioner and served on respondent by the clerk, the Court will rule on the matter within 60 days of that date, unless the Court finds it necessary to further extend ruling on the matter. (Cal. Rules of Court, rule 4.551(h).)

The clerk is directed to give notice to petitioner and the Office of the Attorney General.

The court order is signed and filed this date.

A true copy of this minute order is sent via U.S. Mail to the following parties:

Case 3:08-cv-02511-PJH Document 8-2 Filed 09/03/2008 Page 9 of 11  
**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DEPT 100

Date: MAY 11, 2007

Honorable: STEVEN R. VAN SICKLEN  
NONE

Judge J. PULIDO  
Bailiff NONE

Deputy Clerk  
Reporter

(Parties and Counsel checked if present)

BH 004213

In re,  
ALFONSO CARRANZA,  
Petitioner,  
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS

The clerk is directed to mail a copy of the petition for writ of habeas corpus, along with notice of this order, to the Office of the Attorney General, P.O. Box 85266, San Diego, CA 92186-5266 to the attention of Ms. Cynthia Lumely.

This petition is forwarded to the Office of the Attorney General for safe-keeping and for future use. The petition should be kept in the event an Order to Show Cause should issue by this Court or in the event the petition is required for any purpose by this or any other Court. This Court will not reproduce any portion of the record in the future.

The court order is signed and filed this date. The clerk is directed to give notice.

A true copy of this minute order is sent via U.S. Mail to the following parties:

Alfonso Carranza  
E-30803  
San Quentin State Prison  
San Quentin, CA 94974

Department of Justice  
Office of the Attorney General of the State of California  
P.O. Box 85266  
San Diego, CA 92186-5266  
Attn: Ms. Cynthia Lumely

THE DOCUMENT TO WHICH THIS CERTIFICATE IS  
ATTACHED IS A FULL, TRUE, AND CORRECT COPY  
OF THE ORIGINAL ON FILE AND OF RECORD IN  
MY OFFICE.

JUN 29 2007

JOHN A. CLARKE, Executive Officer/Clerk of the  
Superior Court of the State of California for the County  
of Los Angeles

By

*Joseph M. Pulido*

JOSEPH M. PULIDO, S.C.C.  
233219, Deputy



<b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF LOS ANGELES</b>		Reserved for Clerk's File Stamp  <b>CONFIRMED COPY</b> OF ORIGINAL FILED Los Angeles Superior Court  <b>JUN 29 2007</b>  John A. Clarke, Executive Officer/Clerk By <u>JP</u> , Deputy Joseph M. Pulido
COURTHOUSE ADDRESS: Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street Los Angeles, CA 90012		
PLAINTIFF/PETITIONER:  ALFONSO CARRANZA		
<b>CLERK'S CERTIFICATE OF MAILING</b> CCP, § 1013(a) Cal. Rules of Court, rule 2(a)(1)		CASE NUMBER:  BH004213

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

- |  |   |
|--|---|
| <input type="checkbox"/> Order Extending Time            | <input checked="" type="checkbox"/> Order re: Writ of Habeas Corpus                                     |
| <input type="checkbox"/> Order to Show Cause             | <input type="checkbox"/> Order  |
| <input type="checkbox"/> Order for Informal Response     | <input type="checkbox"/> Order re:  |
| <input type="checkbox"/> Order for Supplemental Pleading | <input checked="" type="checkbox"/> Copy of Petition for Writ of Habeas Corpus for the Attorney General |

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

June 29, 2007  
 DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By: Joseph M. Pulido, Clerk  
 Joseph M. Pulido

Alfonso Carranza  
 E-30803  
 San Quentin State Prison  
 San Quentin, CA 94974

Department of Justice  
 Office of the Attorney General of the State of California  
 P.O. Box 85266  
 San Diego, CA 92186-5266  
 Attn: Ms. Cynthia Lumely



# **EXHIBIT B**

## **Part 1 of 2**

SAN QUENTIN, CA 94974

CDC or ID Number E-30803

CALIFORNIA SUPERIOR COURT  
IN AND FOR THE COUNTY OF LOS ANGELES  
(Court)

ALFONSO CARRANZA,

Petitioner

vs.

ROBERT AYERS JR., Warden,

Respondent

PETITION FOR WRIT OF HABEAS CORPUS

No.

BH004213

(To be supplied by the Clerk of the Court)

INSTRUCTIONS - READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies.
- If you are filing this petition in the California Supreme Court, file the original and thirteen copies.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rules 56.5 and 201(h)(1) of the California Rules of Court [as amended effective January 1, 1999]. Subsequent amendments to Rule 44(b) may change the number of copies to be furnished the Supreme Court and Court of Appeal.

- ☐ A conviction ☒ Parole
- ☐ A sentence ☐ Credits
- ☐ Jail or prison conditions ☐ Prison discipline
- ☐ Other (specify): \_\_\_\_\_

1. Your name: Alfonso Carranza
2. Where are you incarcerated? San Quentin State Prison, San Quentin, CA 94974
3. Why are you in custody? ☐ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reasons for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Second degree murder, attempted murder, and attempted manslaughter with use of gun.

- b. Penal or other code sections: Penal Code § 187

- c. Name and location of sentencing or committing court: California Superior Court, in and for the county of Los Angeles

- d. Case number: LA539854

- e. Date convicted or committed: October 31, 1988

- f. Date sentenced: November 1988

- g. Length of sentence: 14 years and a consecutive 17 years-to-life.

- h. When do you expect to be released? Minimum Eligible Parole Date: March 15, 2007

- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

\_\_\_\_\_  
\_\_\_\_\_

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

SEE "INSERT A" attached pages 1 through 12

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time (*when*) or place (*where*). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

---

---

---

---

---

On April 19, 2006, Alfonso Carranza ("Petitioner"), appeared before the Board of Parole Hearings ("BPH") for his initial "Life Term Parole Consideration Hearing." The BPH found petitioner unsuitable for parole and that he would pose an unreasonable risk to society or a threat to public safety if released from prison. The BPH stated that "Nothing that happens here today will change the findings of the court, we are not here to retry your case. Our purpose is solely to determine your suitability for parole." (Exhibit A, Hearing Transcripts ("HT"), p. 9.) However, the record indicates that the BPH did relitigate the case, mischaracterized it as a first degree murder, being calculated, and based its decision on unchanging factors, while ignoring factors that support a finding of rehabilitation and suitability for parole. The BPH based its decision to deny parole on the following:

1. The offense itself is of sufficient severity for the denial. And for that reason the inmate is being denied.
  2. The inmate is also being denied because he has an escalating pattern of criminal conduct.
  3. The inmate has failed at previous grants of probation and cannot be counted upon to avoid criminality.
  4. The inmate has failed to profit from societies previous attempts to correct his criminality such attempts include adult probation as well as your drug rehab.
  5. The prisoner has failed to sufficiently participate in self-help and therapy programming.
  6. [T]he panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin.
- 
7. The prisoner needs therapy, programming and self-help in order to face, discuss, understand, and cope with stress in a non destructive manner as well as to get further insight

(Exhibit A, HT at p. 83-86.)

After denying Petitioner parole, Deputy Commissioner Thompson commended Petitioner for the following:

[H]e did remain disciplinary free and he has been involved in counseling his peers and the Spanish speaking inmates as well as adjustment issues. And he was noted and commended for that by the church group, I believe it is Jubilee Christian church. And he has a number of letters thanking him for his help and his cooperation in various events. I think they all show a willingness to be socialized and try to have empathy for other people. Which is to be commended and hopefully built on as a good foundation for future life or future contacts. And I think all in all he has made some educational efforts, he did get an equivalency degree. And he has taken English as a second language which makes him a good role model for Spanish speaking inmates who are trying to interface and interrelate to an English speaking, American English admittedly, but an English speaking community. And I think that is all commendable.

(Exhibit A, HT at 86-87.)

The BPH's reason to deny parole must be supported by "some evidence" pertinent to the "relevant standards" promulgated by the BPH to comply with constitutional due process. (In re Rosenkrantz, supra, 29 Cal.4th at pp. 657-658 & 675-677; see also In re Dannenberg, supra, 34 Cal.4th at pp. 1071, 1084, 1095, fn. 16.) This requires a BPH panel's decision to deny parole to "have some rational basis in fact." (Scott II, 133 Cal.App.4th at p. 590, fn. 6.) As the administrative record of the BPH's review and consideration of the pleadings make clear, there simply is no such rational basis supporting the BPH's decision to deny Petitioner parole.

This is another case which demonstrates the BPH's boiler-plate denial of using the gravity of the offense as the basis to deny parole regardless of a prisoner's efforts and showing of rehabilitation. Putting aside the pre-commitment factors and, commitment offense, "all other factors indicate

Cal.App.4th at 594.) The California First Appellate District Court cautioned the Governor about a reversing a grant of parole based solely on the commitment offense or other pre-commitment factors:

Reliance on such an immutable factor "without regard to or consideration of subsequent circumstances" may be unfair [citation] and "runs contrary to the rehabilitative goals espoused by the prison system and could result in a due process violation." [Citation.] The commitment offense can negate suitability only if circumstances of the crime reliably established by evidence in the record rationally indicate that the offender will present an unreasonable public safety risk if released from prison. Yet, the predictive value of the commitment offense may be very questionable after a long period of time. [Citation.] Thus, denial of release solely on the basis of the gravity of the commitment offense warrants especially close scrutiny.

(Id. at pp. 594-595.) Where such scrutiny reveals that the [BPH] "did not fulfill" the requirement "to consider all other relevant factors," the decision cannot stand. (Id. at p. 595.) Such is the case here.

1. The Facts of the Commitment Offense Do Not Provide a Reasonable Basis to Deny Parole.

The BPH's mischaracterization of Petitioner's commitment offense does not make it "some evidence" to support a finding of unsuitability for parole.

In relying on the commitment offense to deny parole, the BPH stated:

Multiple victims were attacked, injured and one was killed during the offense. The offense was carried out in a dispassionate and calculated manner, which demonstrates an exceptional callous disregard for human suffering. The motive for the crime was inexplicable. The sad part of my position [Commissioner Lee] is that I truly do not know what occurred out on the street nor does the Deputy Commissioner. We are only privy to what is submitted before us. The inmate's version is totally at odds with the information we have received in our packets.

(Exhibit A, HT p. 82.)

~~The BPH cannot base their decision on uncertainty and then used that~~  
uncertainty to recharacterize the second degree murder, commitment offense,



Michael Satris:

We don't have two counts of attempted murder in this case, as the District Attorney characterized it. We have a finding of attempted voluntary manslaughter and that is critical because that shows that this isn't the kind of cold calculated attempt to kill three people that the District Attorney is now trying to promote in a retrial of the case. The manslaughter finding or attempted manslaughter does indicate apparent acceptance either a provocation or unreasonable belief in the need for self-defense. And there is substantial evidence of course in the record that would support this (HT 61-62). ... All right so I would ask the board to do what it indicated in the vary outset of this hearing of what it was going to do. Which is to consider Mr. Carranza [Petitioner] for parole in accordance with Penal Code Section 3041 and its own rules and regulations. That Penal Code Section provides that the board should normally grant a prisoner or set a parole date for a prisoner at his first parole hearing (HT 64). ... Under the boards rules in terms of multiple victims to start with that is a factor that leans toward a finding of unsuitability for parole. But what is important is that is only if that offense shows he presents a continuing danger at this point. Because we are talking about present dangerousness when we are talking about suitability for parole. The record makes it very plain in this case that kind of entrenched criminality at that time was a the product of a kind of destructive lifestyle he was living involving drugs and weapons (HT 65). ... In terms of pre offense factors. You have no juvenile record, ... lacks any significant history of violent crime. And what you have is no violent criminality outside of this offense. This is his single act of criminal violence (HT 66). ... Institutional behavior has institution activities indicated an enhanced ability to function within the law upon release. And you see that first of all with the behavior of the remarkable record he has of being disciplinary free (HT 67). ... He has his plans for what is most realistic, really the only realistic plan for the future is he is going to be deported to Mexico. And he is fully prepared for that. He has his wife ready to move as need to be back there (HT 69.)

(Exhibit A, HT 61-69.)

"[T]he [BPH] is required to consider whether the prisoner committed the crime as the result of significant stress in his or her life." (Scott II, supra, 133 Cal.App.4th at 596, quoting with emphasis In re Rosenkrantz, supra, 29 Cal.4th at p. 679.) a failure to do so "is arbitrary and capricious

...." (Ibid.) The BPH's denial here was thus arbitrary and capricious, for they failed to consider the evidence of the considerable stress that Petitioner was experiencing at the time, which includes being addicted to drugs and alcohol, while being confronted by the victims in a altercation. As petitioner explained in his written version of the offense, Petitioner was not the instigator and was under influence:

On the evening of November 30, 1985 I went to the La Casa Blanca bar. I started to play pool, drink beer, and snort cocaine. When I got into an argument with Raul Munoz [victim] instead of trying to calm the situation down I responded at his [the victim's] level. In my macho mentality I thought it was considered weak to back down from violence. After the heated argument Mr. Munoz left the bar and I stayed to continue to play pool. Just before the bar closed I went outside and saw Mr. Munoz and two men coming at me. Mr. Munoz was cursing at me and I reached over and I was quick to shoot -- And I overreacted, []. ... I was living a life that was out of control. ...

(Exhibit A, HT 21-22.)

Though the BPH did mention that "[t]he information apparently in the packets seem to indicate at trial the witnesses did indicate there was an ongoing dispute that apparently on at least two occasions an attempt to solve this particular dispute in fact it seems to indicate there was a point and time where both sides shook hands[]" (HT 82-83), and that "the victim left the bar and went and got his brothers," (HT 16), the BPH ignored the fact that the jury rejected the prosecutor's version of the crime when it found Petitioner guilty of a less capable offense than charged and argued by the District Attorney's office. Furthermore, the BPH recognized that Petitioner's "usage in regards to cocaine[]" (HT 84), at the time of the offense, the BPH decision studiously avoided notice of the evidence of stress that the record spread before them. The BPH not only ignored the evidence that

---

Petitioner was experiencing a significant amount of stress at the time of the offense, but that the stress had built up over a long period of time.

Regs., tit. 15, §2402, subd. (d)(4) ["the prisoner's 'motivation' for the offense tends to show suitability when it was the result of significant stress in his life, especially if the stress has built over a long period of time"].)

The fact that the BPH describes the commitment offense as "dispassionate and calculated" (HT 82), does not change the analysis. As the on Court has stated: "'All second degree murders by definition involve some callousness - i.e., lack of emotion or sympathy, emotional insensitivity, indifference to the feelings and suffering of others. [Citation.] As noted, however, parole is the rule, rather than the exception, and a conviction of second degree murder does not automatically render one unsuitable.'" (Scott II, supra, 119 Cal.App.4th at p. 891.)

As brutal as Petitioner's homicidal conduct may have been, it did not go beyond what caused that conduct to constitute second degree murder, he did nothing beyond what accomplished the killing to "cruelly or callously exacerbate[] the victim's suffering." Parole authorities may use the factors in Petitioner's case, shooting the victim, to aggravate his term, but that manner of death does not disqualify a prisoner from parole. As the California Court of Appeals, First Appellate District, noted, the BPH's observation that "[t]he offense itself is of sufficient severity for the denial" (HT 83), "could be repeated annually until [Petitioner] dies or is rendered helpless by the infirmities of sickness or age." (Scott II, supra, 133 Cal.App.4th at p. 595.) The manner in which Petitioner shot at the victim is not atypical for a murder case, and hardly acts to "distinguish this crime from other ... murders as exceptionally callous." (In re Smith, supra, 114 Cal.App.4th at p. 367.) As the California Supreme Court has noted on more

than a score of occasions, murder is seldom provoked. (See, e.g., People v. Hinton (2006) 37 Cal.4th 839, 896.) The BPH's denial of parole to such murders is contrary to the statute.

The BPH failed to conduct an individualized assessment of all required factors. Clearly, the facts at hand do not meet the requirements set forth by the regulations and the courts to justify the BPH's finding of unsuitability for parole. As the record shows, Petitioner's crime merely satisfies the bare minimum requirements for finding of a second degree murder. He did not torture Mr. Munoz, or lie in wait for him; he did not prolong his suffering, or kill him in order to rob him or incite a race war. His crime, while terrible, does not rise to the level of callousness present in Dannenberg, where after a long period of marital disharmony, the defendant bludgeoned his wife repeatedly with a pipe wrench and then drowned her or allowed her to drown in the bathtub; or Rosenkrantz, where defendant purchased an Uzi and, one week after provocation, shot the victim numerous times at close range and then remained a fugitive for 24 days; or Van Houten, where defendant assisted with multiple stabbings of the victim with a knife and bayonet, after the victim witnessed her husband receiving the same fate, all an effort to incite a race war. See Van Houten, 116 Cal.App.4th at 365.

Not only does Petitioner's crime fail on its own to constitute "some evidence" that he is a continuing threat to public safety, but the BPH erred by failing to consider all of factors required by the regulations. Post-commitment facts are essential to determining suitability of parole. The BPH failed to consider Petitioner's perfect post-commitment record, positive psychological and forensic evaluations, exemplary in-prison work record, extensive self-help and therapy, and post release offer of housing and employment in Mexico, and therefore cannot justify his denial of parole.

Cal. May 17, 2006), Judge Patel held that (1) sole reliance on the circumstances of petitioner's offense and conduct prior to the offense in denying parole constituted a due process violation, and (2) denial of parole under California's then-existing no-parole policy for murderers denied the inmate his due process right to be heard by an impartial decision-maker. Judge Patel further found that California inmates have a federally-protected due process liberty interest in parole.

2. The Facts of Petitioner's Escalating Pattern of Criminal
3. Conduct; His Failure at Previous Grants of Probation; and
- & His Failure to Profit from Societies Previous Attempts to
4. Correct His Criminality, Do Not Provide Some Evidence That  
Petitioner is a Current Unreasonable Risk to Public Safety.

The BPH also points to Petitioner's pre-commitment offense behavior. "The inmate began to use cocaine heavily in California. And began to sell cocaine apparently to support his habit. As far as previous contacts the inmate as far as we know has no juvenile contacts. ... 1980. He also has, was arrested I should say for drunk driving in the following month in April. The inmate was ordered to attend a drug and alcohol program at that time. In 1984 the inmate was in possession of a controlled sustains. ..." (HT 14.) In 1984 Petitioner was arrested for possession of gun and cocaine. In 1987 Petitioner was arrested for possession of cocaine and received six years in Federal Prison. (HT 15.) These charges do not rise to the level anticipated in the Regulations which define "Previous Record of Violence" as "previous occasions [prisoner] inflicted or attempted to inflict serious injury on a victim." 15 CCR § 2402(b)(2); see also Van Houten, 116 Cal. App.4th at 353. Possession of cocaine is not assault and Petitioner's arrest for possession of weapon was not an attempt to inflict injury, of any severity,



on anyone. No reasonable interpretation (Rosenkrantz, 29 Cal.4th at 680)  
Case 3:08-cv-02511-PJH Document 8-3 Filed 09/03/2008 Page 14 of 73  
of these facts can transform them into becoming "some evidence" of a "Previous  
Record of Violence." (15 CCR § 2402(b)).

Courts have also made clear that the evidence cited by the Executive must be relevant and probative to the factors that such evidence is being used to support. For instance, in Smith, the Governor had pointed to evidence indicating that "the crime was not an isolated incident, but rather the culmination of 'a continuing pattern' of personal drug use, social instability, and violence against Garner." Smith, 114 Cal.App.4th at 367. The court held that though there was some evidence of drug use, such evidence was not relevant to a determination of the key inquiry -- whether the inmate would pose a current, unreasonable threat to public safety.

[T]he observation is more historical backdrop than a reflection of the circumstances surrounding commission of the offense: its manner, scope, and motivation. Indeed, there is no evidence that Smith shot Garner while he was under the influence, and no evidence that he abused her immediately before the shooting or even during the days and weeks before it. Thus, the Governor's observation does not tend to distinguish Smith's offense as especially grave.

(Id. at 368.)

5. There No Evidence That Petitioner Has Failed to Sufficiently Participate in Self-Help and Therapy Programming to Support a Finding of Unsuitability for Parole.

In another recent parole case, the court held that the Board's observation that the inmate had not gained an ability to speak English and that he had failed to upgrade his vocational training was not relevant to support a conclusion that "he would pose an unreasonable risk of danger to society or threat to public safety if released from prison." Nothing in the record indicates that defendant's criminality or ability to support himself was affected by any limitation of his vocational or language skills."

In re Deluna (2005) 126 Cal.App.4th 585, 598; Cf. Van Houten, 116 Cal.App.4th

at 353 (inmate's previous arrest record did not constitute "some evidence" of a threat to public safety because the alleged acts did not involve serious injury or attempted serious injury to a victim).

6. The Fact That The District Attorney's Office and Victim's Next of Kin Opposes Parole Does Not Constitute "Some Evidence" That Petitioner Currently Poses An Unreasonable Risk to Public Safety.

The BPH cited the District Attorney's Office and Victim's next of kin opposition to a finding of suitability to deny Petitioner parole. (HT 86.) Public outcry cannot be used to determine whether an inmate is suitable for parole. (In re Powell (1988) 248 Cal.Rptr. 431; In re Fain (1983) 139 Cal.App.3d 295.) Furthermore, because Petitioner had no notice that this factor would be used against him, this factor is unconstitutionally vague. (United States v. Doremus, 888 F.2d 630, 634 (9th Cir. 1989) [A statute (or regulation) is void for vagueness : if it fails to give adequate notice to people of ordinary intelligence concerning the conduct it proscribes, or if it invites arbitrary and discriminatory enforcement.] .)

7. There is No Evidence to Support the BPH's Finding that Petitioner Needs Programming and Self-Help in Order to Face, Discuss, Understand, and Cope With Stress in a Non Violent Manner.

Finally, the BPH panel found that Petitioner "needs therapy, programming, and self-help in order to face, discuss, understand and cope with stress in a non destructive manner as well as to get further insight into the crime. Until progress is made the prisoner continues to be unpredictable and a threat to others." (HT 86.)

Petitioner has been disciplinary free his entire time in prison. He has shown that he can cope with stress in a non-destructive manner. In ~~In re Smith, Cal.App.4th at page 371, the court held that evidence that~~  
a prisoner used intoxicating substance 20 years prior is not some evidence

[W]e conclude that Smith's past desire for and use of drugs not by itself reasonably established current unsuitability because there is no additional evidence to complete a chain of reasoning between his past drug use and a finding that because of it he currently poses an unreasonable risk of danger if released. In other words, in the absence of some evidence to support a reasonable belief that Smith might start using drugs again, the fact that he used drugs extensively more than 20 years ago does not by itself represent some evidence that he is currently dangerous.

Same holds true in the instant case. There is no reasonable basis to believe that Petitioner might start using alcohol and drugs if released. The BPH is asserting authority that it does not possess, denying parole because a prisoner continues to be unpredictable. "According to a Task Force of the American Psychiatric Association, '[n]either psychiatrist nor anyone else have demonstrated an ability to predict the future violence or dangerousness. [Citation] As our Supreme Court has also noted, 'the same studies which proved the inaccuracy of psychiatric prediction [of dangerousness] have demonstrated beyond dispute the no less disturbing manner in which such prophecies consistently err: they predict acts of violence which will not in fact take place ('false positive'), thus branding as 'dangerous' many persons who are in reality totally harmless. [Citation]" (People v. Burnick (1975) 14 Cal.3d 306, 327.)

Under the clearly established framework of Allen and Greenholtz, "California's parole scheme gives rise to a cognizable liberty interest in release on parole." McQuillion v. Duncan, 306 F.3d 895, 902 (9th Cir. 2002). The scheme creates a presumption that parole release will be granted unless the statutorily defined determinations are made. (Id.; Biggs v. Terhune, 334 F.3d 910, 915-916 (9th Cir. 2003) (finding initial refusal to set a parole date for prisoner with 25-to-life sentence implicated prisoner's liberty interest.) In sum, the structure of California's parole scheme, with its



mandatory language and substantive predicates, gives rise to a federally  
Case 3:08-cv-02511-PJH Document 8-3 Filed 09/03/2008 Page 17 of 73  
protected liberty interest in parole such that an inmate has a federal right  
to due process in parole proceedings.

For the foregoing reasons, the Court should reverse the BPH's findings  
and order the BPH to set Petitioner's term within the Matrix guidelines for  
second degree murder. (See Exhibit B, CCR-15 § 2403(c).)

THEY BASED THEIR DECISION TO DENY PETITIONER PAROLE BEYOND THE GUIDELINES ON THE SAME FACTORS THAT WENT INTO FORMULATING THE GUIDELINES IN THE FIRST PLACE.

On April 19, 2006, Alfonso Carranza ("Petitioner"), appeared before the Board of Parole Hearings ("BPH") for his initial "Life Term Parole Consideration Hearing." In its decision to deny Petitioner parole for four-years, the BPH stated:

The panel has reviewed all information received from the public and relied on the following circumstances in concluding the prisoner is not suitable for parole and would pose an unreasonable risk to society or a threat to public safety if released from prison. Multiple victims were attacked, injured and one killed during the offense. The offense was carried out in a dispassionate and calculated manner. The offense was carried out in a manner, which demonstrates an exceptional callous disregard for human suffering. The motive for the crime was inexplicable or very trivial in relationship to the offense. The sad part of my position is that I truly do not know what occurred out on the street nor does the Deputy Commissioner. We are only privy to what is submitted before us. The inmate's version is totally at odds with the information we have received in our packets. ... The inmate is also denied because he has an escalating pattern of criminal conduct. ... The inmate failed at previous grants of probation and cannot be counted upon to avoid criminality. ... The prisoner has failed to sufficiently participate in self-help and therapy programming. ... In regards to inmate's parole plans I think they are sufficient. ... However the panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin.

...

(Exhibit A, Hearing Transcripts, pp. 82-85.)

This case presents interesting issues concerning the procedures and guidelines used by the BPH in reaching and explaining its decisions concerning parole. The issues arise because the BPH has designed procedures (Pursuant to Cal. Penal Code §3041 (a)) that are suppose promote rationality in its decision-making process and to enhance understanding of the that process by all concerned, especially prisoners. The key ingredients of

the procedures are (a) the use of a Matrix table of guidelines as an aid in deciding the appropriate length of time a prisoner should serve without good-time credit, and then calculating the good-time credit toward that term; and (b) a requirement that a prisoner denied parole receive in writing the reasons for the decision. These aspects of the BPH's guidelines and procedures are detailed in In re Rosenkrantz (2002) 29 Cal.4th 616, 653-654; Cal. Codes of Regs. tit. 15 ("CCR-15") § 2400-2411. (Exhibit B.)

The guideline table sets forth suggested length of time to be served prior to parole for various combinations of two variables: 1) the severity of the offense, and 2) the characteristics of the offender in relation with the victim. The precise issues raised by this case are (a) whether, in determining suitability for parole, the BPH must use the offense for which the prisoner was convicted, or can use the offense the BPH concludes he or she has committed based on the BPH's understanding of facts that allegedly occurred, and (b) whether the BPH can use factors that went into formulating the guidelines for setting terms (in mitigation or aggravation) as the stated reason for denying parole.

As brutal as Petitioner's homicidal conduct may have been, by the BPH's own guidelines, petitioner's term "shall normally" be set at his initial parole hearing, which was held in April 19, 2006. Petitioner Minimum Eligible Parole Date (MEPD) is set at March 15, 2007. As will be shown below, Petitioner should have been found suitable for parole and his term should have been set somewhere in the range of 15 to 19 years, which can be reduced with good conduct credit. (Exhibit B, CCR-15 § 2410.)

The BPH's own guidelines requires the BPH to determine the category ~~most closely related to the circumstances of the crime, and impose the~~ middle base term reflected in the matrix unless the panel finds

circumstances in aggravation or mitigation. (CCR-15 § 2403.) The criteria set forth in 15 CCR-15 § 2403(c) describes three circumstances and victim situations to be used in determining the category most closely related to the crime being reviewed for setting terms:

#### CIRCUMSTANCES

##### A. Indirect

Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force; e.g., shock producing heart attack; a crime partner actually did the killing.

##### B. Direct or Victim Contribution

Death was almost immediate or resulted at least partial from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victim acting in defense of self or property.

##### C. Severe Trauma

Death resulted from severe trauma inflicted with deadly intensity; e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.

#### OFFENDER'S AND VICTIM'S RELATIONSHIP

##### I. Participating Victim

Victim was accomplished or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred, e.g., crime partner, drug dealer, etc.

##### II. Prior Relationship

Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If the victim had a personal relationship but prisoner hired and/or paid to commit the offense, see Category IV.

##### III. No prior relationship

Victim had little or no relationship with prisoner, or motivation for act resulting in death was related to the accomplishment of another crime, e.g., death of victim during robbery, rape, or other felony.

CCR-15 § 2407 provides Adjustments for Other Offenses:

(a) General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.

(b) Multiple Convictions.

(1) General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.

(2) Consecutive Life Sentences Imposed by the Court. If the court imposed consecutive life sentences the board shall determine the base crime and base term as provided in Section 2403(a). The board shall add adjustments for remaining life crimes. The adjustment for each remaining life crime shall be a period of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the crime. In no case will the parole date for consecutive sentences be earlier than the parole date for the concurrent sentences.

(3) Concurrent Life Sentences Imposed by the Court. If the court imposed concurrent life sentences, the board may add an adjustment because prisoner has been convicted of more than one crime. The suggested adjustment is greater of:

(A) Time served on the nonbase life crime prior to reception on the base offense; or

(B) The following adjustment:

1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.

2. Second degree murder: 8 years for second degree murder committed on or after November 8, 1978.

3. One-half the period of parole ineligibility for other life crimes.

(4) Consecutive Nonlife Sentences Imposed by the Court. If the court imposed consecutive nonlife sentences the Board shall not add additional adjustment for nonlife crime.

(5) Concurrent Nonlife Sentences Imposed by the Court. If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served for nonlife crime prior to reception on the life offense; or

(B) One-half the determinate term imposed by the court; or

~~(C) One-half the term that would be established under Section~~  
227 (e) for crimes which carry a sentence of one year and one day.

The record shows that the BPH did not follow its own guidelines and Matrix. Instead, the BPH based its decision to deny parole on the same factors that went into formulating the guidelines.

The BPH's guidelines recognize that there will be adjustment to be made for elements that go beyond what is necessary to convict for second degree murder. These factors do not preclude a finding of suitability. (See CCR-15 § 2411, Fixing a Parole Date.) (Exhibit B, p. 77-78.)

In Little v. Hadden, 504 F.supp. 558, 561, a federal court addressed the same type of abuse that occurred in this case:

[I]t is unreasonable and impermissible for the Commission to base a decision to continue beyond the guidelines on the same factors that went into formulating the guidelines in the first place. No one disputes that this was a serious crime, but the factors of seriousness indicated by this record are included in the guidelines themselves. ... It is clear to the Court from the record in this case that the Commission has attempted to continue Little in custody beyond the guidelines because of its ad hoc decision regarding the seriousness of the offense, but the factors relied upon are either unsupported by the record or were already considered in formulating the guidelines. ... In short, the Commission's decision is arbitrary and capricious because it is not based on anything in the record before it. Moreover, it reflects an abuse of discretion because it attempts to continue Little's confinement beyond the guidelines without the statutory required good cause.

(See also, Lupo v. Norton, 371 F.Supp. 156 (1974).)

Petitioner's right to a presumption parole release date, Legislative intent, includes "behavioral" credits for participation with "good conduct" under California Penal Code § 2900.5 and CCR-15 § 2900. The BPH's failure to set petitioner's parole release date abrogates this whole Legislative mandate for prisoners with term-to-life sentences. Failure to set a term ~~at the earliest possible time, initial hearing, also precludes~~ Petitioner from participating in self-help programs located at the minimum security



level part of the prison, including family visits, which are attended to  
Case 3:08-cv-02511-PJH Document 8-3 Filed 09/03/2008 Page 23 of 73  
keep family ties strong and to help with reentry into the family and  
community.

In sum, the executive's implementation of the parole system in California has turned upside down the legislative contemplation that murderers normally be found suitable for parole at their earliest eligibility and released at a time proportionate to the individual's culpability. Instead of honoring the legislative mandate to normally parole murderers, the BPH has arbitrarily established a policy of almost never permitting parole to them. Consequently, Petitioner has not been afforded federal and state constitutional due process guaranties in the course of the executive's refusal to follow their own guidelines. (See Hicks v. Oklahoma (1980) 447 U.S. 343 [arbitrary deprivation of a state statute affecting life or liberty constitutes a violation of federal due process].)

The BPH may not replace the legal standards for parole with its own personal and political ones. (See, e.g., United States v. Lee (1882) 106 U.S. 196, 220.)

For the foregoing reasons, this court should find that the BPH violated Petitioner's state and federal due process when it failed to follow its own guidelines and based its decision to deny parole on the same factors that went into formulating the guidelines in the first place. The court should order the BPH to hold a new hearing within 30 days, follow its own guidelines, stop using factor that went into formulating the guidelines as factors to deny parole, and set Petitioner's term within the guidelines set forth for second degree murderers. (See Exhibit B, § 2403(c).)

THE BOARD OF PAROLE HEARINGS' RELIANCE ON MULTIPLE VICTIMS WHERE INJURED OR KILLED AS A REASON TO DENY PAROLE FOR FOUR-YEARS VIOLATES THE STATE AND FEDERAL DOUBLE JEOPARDY AND PETITIONER'S DUE PROCESS BECAUSE PETITIONER HAS ALREADY RECEIVED AND SERVED SEPARATED TERMS FOR THE MULTIPLE-COUNTS. BY THE DOCTRINES OF RES JUDICATA AND COLLATERAL ESTOPPEL, THE BOARD IS PROHIBITED FROM USING MULTIPLE VICTIMS AS A REASON TO DENY PAROLE FOR MULTIPLE-YEARS.

On October 31, 1988, in the Los Angeles County Superior Court, a jury convicted Petitioner of second-degree, attempted murder, and attempted manslaughter. Petitioner was sentenced to a determinate term of 14 years and a consecutive, indeterminate term of 17 years-to-life.

On March 15, 1997, after serving his determinate sentence, Petitioner began to serve his 17 years-to-life sentence for the second degree murder. Petitioner's Minimum Eligible Parole Date ("MEPD") is set at March 15, 2007.

On April 19, 2006, pursuant to California Penal Code § 3041(a), Petitioner appeared before the Board of Parole Hearings ("BPH") and was denied parole for four years. In their decision, the BPH stated:

This is the inmate initial hearing. The District Attorney has indicated that five years is the appropriate denial time. I will indicate in a separate decision the hearing panel finds that the prisoner has been convicted of murder as well as attempted homicide and it is not reasonable to expect parole would be granted in the next four years. Sir I will tell you we had discussions about this particular area. But Mr. Sattris does indicate the obvious. You were not given the sentence of life without possibility of parole, you are attempting at this point and time to better yourself. I don't believe five years is appropriate. I think four years is the appropriate amount to get together the things that you need to get together.

(Exhibit A, HT 87.)

The California Code of Regulation Title 15 ("CCR-15") § 2407(b)(4) mandates that "If the court imposed consecutive nonlife sentences the Board shall not add an additional adjustment for the nonlife crime." CCR-15 § 2407(b)(5) states, "If the court imposes concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more



than one crime. The suggested adjustment is the greater of: (A) Time served for the nonlife crime prior to reception on the life offense; or (B) One-half the determinate term imposed by the court; or (C) One-half the term that would be established under Section 2271(e) for crimes which carry a sentence of one year and one day." (Exhibit B, pp. 76-77.)

The record clearly shows that the BPH abused its discretion and violated Petitioner's rights to be free from double jeopardy or a dual use of the commitment offense. By the doctrines of res judicata and collateral estoppel, the BPH is precluded from reconsidering whether the gravity of Petitioner's nonlife offenses provides a basis for denying him parole. (See, e.g., U.S. v. Schwartz, 785 F.2d 673, 681-682 (9th Cir.).)

The Double Jeopardy Clause's prohibition against prosecution for same offense limits the power of a court, or parole board, to alter sentences. (See, e.g., U.S. v. Arrellano-Rios, 799 F.2d 520, 524-25 (9th Cir. 1986) [defendant who served one-year sentence for aiding and abetting drug crimes could not have sentence increased after related weapons conviction vacated nor could case be remanded to provide government with chance to increase sentence for aiding and abetting drug crime.] )

For the forgoing reasons, the court should find that the BPH violated Petitioner's due process when it denied him parole for four years.

PETITIONER WAS DENIED A FAIR AND IMPARTIAL PAROLE HEARING WHEN THE BOARD OF PAROLE HEARINGS RELIED ON OPPOSITION FOR PAROLE FROM THE DISTRICT ATTORNEY'S OFFICE AND VICTIM'S NEXT OF KIN AS A REASON TO FIND PETITIONER UNSUITABLE FOR PAROLE. THE VICTIM'S NEXT OF KIN'S FEELINGS, CONCERNS, AND OTHER STATEMENTS WERE ALREADY CONSIDERED DURING THE SENTENCE STAGE AND THEIR PRESENCE, ALONG WITH THE DISTRICT ATTORNEY'S OFFICE PRESENCE, CREATES A CONTAMINATION BY EXTRANEOUS INFLUENCES IN THE PAROLE PROCEEDINGS.

On October 31, 1988, in the Los Angeles County Superior Court, a jury convicted Petitioner of second-degree, attempted murder, and attempted manslaughter. After considering the statements from the District Attorney's office and victim's next of kin, the court sentenced Petitioner to a determinate term of 14 years and a consecutive, indeterminate term of 17 years-to-life.

On March 15, 1997, after serving his determinate sentence, Petitioner began to serve his 17 years-to-life sentence for the second degree murder. Petitioner's Minimum Eligible Parole Date ("MEPD") is set at March 15, 2007.

On April 19, 2006, pursuant to California Penal Code § 3041(a), Petitioner appeared before the Board of Parole Hearings ("BPH") and was denied parole for four years. In their decision, the BPH stated:

... [T]he panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin. ... The district Attorney has indicated that five years is the appropriate denial time. I will indicate is a separate decision the hearing panel finds that the prisoner has been convicted of murder as well as attempted homicide and it is not reasonable to expect parole would be granted in the next four years. ...

(Exhibit A, HT 87.)

Petitioner has a right to a parole hearing by an impartial panel. The Board of Parole Hearings (BPH) has a the responsibility of protecting this right to ensure that the parole applicant receives a fair and impartial hearing.

hearing because the BPH was unfairly influenced by the District Attorney's office and victim's next of kin. The District Attorney's office and victim's next of kin will always oppose Petitioner's release.

A decision based on a few facts that will always form the basis for denying parole, amounting to a permanent and virtually automatic denial of parole in a contravention of due process, is clearly arbitrary and capricious.

"The presence of a large measure of discretion in a parole system ... does not alter the fundamental due process limitation against capricious decision-making. A legislative grant of discretion does not amount to a license for arbitrary behavior. When the Parole Board bases its decision on factors that bear no rational relationship to rehabilitation or deterrence, it transgresses the legitimate bounds of its discretion." In re Fain (1983) 139 Cal.App.3d 295, 307 (quoting Block v. Potter (3rd Cir. 1980) 631 F.2d 233, 236-37).

The BPH systematically denies parole to all life prisoners by unreasonably finding that the release of almost every life prisoner would jeopardize public safety. The Board always gives a multiple year denial of parole when the District Attorney office or victim's next of kin opposes parole at the initial parole hearing. The Board almost never sets a parole date at the prisoner's initial hearing; rather, it repeatedly postpones the setting of a parole date for the overwhelming majority of prisoners, and rarely grants a life prisoner a parole date no matter how many times it considers the prisoner for release or how much time he has served. The BPH currently grants parole to a very small percentage of eligible lifers - and even more rarely to those who are from another country. (See, e.g., In re Rosenkrantz, supra, 29 Cal.4th at p. 685 [Board granted parole to murderers

In sum, the BPH implementation of the parole system in California has turned upside down the legislative contemplation that murderers normally be found suitable for parole at their earliest eligibility and released at a time proportionate to the individual's culpability. Instead of honoring the legislative mandate to normally parole murderers, the executive has arbitrarily established a policy of almost never permitting parole to them, especially if the District Attorney's office or next of kin opposes parole. Consequently Petitioner has not been afforded federal and state constitutional due process guaranties in the course of the executive's refusal to grant parole to those who have opposition for parole. (See Hicks v. Oklahoma (1980) 447 U.S. 343 [arbitrary deprivation of a state statute affecting life or liberty constitutes a violation of federal due process].) The implementation of the parole law by the executive branch in a manner that disregards both the spirit and the letter of the law also arbitrarily violates the separation of powers doctrine contained in California Constitution, article III, section 3. Finally, an executive practice of parole denial that imposes greater punishment on a prisoner ex post facto violates his right to due process of law. (See, e.g., Young v. Weston (9th Cir. 1999) 176 F.3d 1196 [although law may not be ex post facto on its face, it can be ex post facto as applied]; Rogers v. Tennessee (2001) 532 U.S. 451 [149 L.Ed.2d 697, 121 S.Ct. 1693] [retrospective change in law detrimental to criminal defendant effected by other than legislative/regulatory means implicates due process].)

The contemporary and historical recidivism rate for murderers paroled in California historically is about 2%; the recidivism for other felons paroled in California has been as high as 70% - the highest in the nation. Prisoners as old as Petitioner, particularly after service of long prison

have performed admirably well on parole and demonstrate that the BPH's refusal to grant parole have needlessly caused excessive imprisonment that not only retarded the prisoners' continued rehabilitation and imposed gratuitous pain and suffering on them and their loved ones at a time when the prison system is in crisis due to over-population, but have done considerable damage to the public fisc - all without any measurable increase to public safety and in fact contrary to the interest in public safety.

For the forgoing reasons, Petitioner prays that the Court declare the rights and duties of the parties; grant equitable relief, which requires the BPH to conform their practice of holding parole hearings to the dictates of section 3041 and all statutory, regulatory and constitutional requirements as set forth in the decision of the courts; and all other relief necessary to promote the ends of justice.

b. Result: Affirmed the conviction c. Date of decision: August 24, 1990

d. Case number or citation of opinion, if known: \_\_\_\_\_

e. Issues raised: (1) Ineffective Assistance of counsel; Instruction errors

(2) \_\_\_\_\_

(3) \_\_\_\_\_

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☒ Yes. ☐ No. If yes, give the following information:

a. Result: Denied without comment or citation b. Date of decision: November 14, 1990

c. Case number or citation of opinion, if known: \_\_\_\_\_

d. Issues raised: (1) Same as above

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal. App.3d 500 [125 Cal. Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

There are no administrative remedies available for denial of parole.

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

(3) Issues raised: (a) Trial issues

(b) \_\_\_\_\_

(4) Result (Attach order or explain why unavailable): Denied, order lost in transfer

(5) Date of decision: August 14, 1992

b. (1) Name of court: Court of Appeal, 2nd District

(2) Nature of proceeding: Habeas corpus petition

(3) Issues raised: (a) Trial issues

(b) \_\_\_\_\_

(4) Result (Attach order or explain why unavailable): Denied, Order lost in transfer with other document

(5) Date of decision: April 27, 1993

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

California Supreme Court, habeas corpus denied June 23, 1993; United States District Court

Central District of California, habeas corpus denied August 2003

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain*, (1949) 34 Cal.2d 300, 304.)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 5-7-07

Alfonso Carrayer  
(SIGNATURE OF PETITIONER)



EXHIBIT A

---

INITIAL PAROLE CONSIDERATION HEARING STATE OF CALIFORNIA BOARD OF PAROLE HEARINGS  
SAN QUENTIN STATE PRISON, APRIL 19, 2006



STATE OF CALIFORNIA

## BOARD OF PAROLE HEARINGS

In the matter of the Life )  
Term Parole Consideration )  
Hearing of: )

ALFONSO CARRANZA )  
\_\_\_\_\_)

CDC Number E-30803

**INMATE**  
**COPY**

SAN QUENTIN STATE PRISON

SAN QUENTIN, CALIFORNIA

APRIL 19, 2006

## PANEL PRESENT:

Mr. Stephen Lee, Presiding Commissioner  
Ms. Joan Thompson, Deputy Commissioner

## OTHERS PRESENT:

Mr. Alfonso Carranza, Inmate  
Mr. Michael Sattris, Attorney for Inmate  
Ms. Alexis Delagarza, Deputy District Attorney(vid)  
Mr. Robert Butman, Deputy District Attorney(vid)  
Mr. Timothy Smith, Deputy District Attorney(vid)  
Mr. David Pearson, Deputy District Attorney(vid)  
Mr. Marsh Goldstein, Deputy District Attorney(vid)  
Mr. Hector Munoz, (indiscernible)  
Ms. Cecelia O'Reilly, sister of victim  
Mr. Luis Munoz, brother of victim  
Mr. Anderson, observer

Correctional Officers Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____	No	See Review of Hearing
_____	Yes	Transcript Memorandum

Jennyfer Osecheck, Peters Shorthand Reporting

INDEX

	<u>PAGE</u>
Proceedings.....	1
Case Factors.....	15
Pre Conviction Factors.....	13
Post Conviction Factors.....	28
Parole Plans.....	42
Closing Statements.....	56
Recess.....	80
Decision.....	81
Transcriber Certification.....	91

--oOo--

1

2.

4

6

9

10

25

27

1 Joan Thompson, T-H-O-M-P-S-O-N, and I am a  
2 Deputy Commissioner with the Board of Parole  
3 Hearings.

4 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

5 DEPUTY DISTRICT ATTORNEY DELAGARZA: Alexis  
6 Delagarza, D-E-L-A-G-A-R-Z-A, Deputy District  
7 Attorney Los Angeles County and with me in the  
8 room are some other Deputy District Attorney's  
9 who are observing this particular lifer hearing.  
10 I will have them identify themselves.

11 DEPUTY DISTRICT ATTORNEY BUTMAN: Robert  
12 Butman, Deputy District Attorney, B-U-T-M-A-N.

13 DEPUTY DISTRICT ATTORNEY SMITH: Timothy  
14 Smith, S-M-I-T-H, Deputy District Attorney.

15 DEPUTY DISTRICT ATTORNEY PEARSON: David  
16 Pearson, Deputy District Attorney that is P-E-A-  
17 R-S-O-N.

18 DEPUTY DISTRICT ATTORNEY GOLDSTEIN: Marsh  
19 Goldstein, G-O-L-D-S-T-E-I-N, Deputy District  
20 Attorney.

21 PRESIDING COMMISSIONER LEE: Thank you.  
22 Ms. Delagarza is appearing by video conferencing  
23 and for all parties we will treat her as though  
24 she is in the hearing room with us. Sir?

25 INMATE CARRANZA: My name is Alfonso  
26 Carranza my number is E-30803.

27 ATTORNEY SATRIS: And I am Michael Satris,

1 S-A-T-R-I-S and I am the attorney for Mr.  
2 Carranza.

3 MR. MUNOZ: My name is Hector Munoz and I  
4 am (indiscernible).

5 MS. O'REILLY: I am Cecilia O'Reilly.

6 PRESIDING COMMISSIONER LEE: And your  
7 relationship to the victim?

8 MS. O'REILLY: I am the sister of Alfonso  
9 (indiscernible) Munoz the victim.

10 MR. MUNOZ: My name is Luis Munoz I am the  
11 brother of (indiscernible), my L-U-I-S-M-U-N-O-  
12 Z. And my other brother Pedro Munoz.

13 MR. ANDERSON: Henry Anderson, from the  
14 board of parole hearings, A-N-D-E-R-S-O-N.

15 PRESIDING COMMISSIONER LEE: Observer?

16 MR. ANDERSON: Observer.

17 PRESIDING COMMISSIONER LEE: And we have  
18 officers here for security purposes as well. At  
19 this time I will indicate that the inmate has  
20 certain rights. Sir you have what is called ADA  
21 rights. It appears that there is no documented  
22 (indiscernible) so I will give you a document.  
23 Sir I understand that you speak English, is the  
24 correct?

25 INMATE CARRANZA: Yes I do.

26 PRESIDING COMMISSIONER LEE: All right do  
27 you need any assistance in speaking or

1 understanding the English language?

2 INMATE CARRANZA: No sir.

3 PRESIDING COMMISSIONER LEE: All right.

4 At this time I am going to give you a document  
5 (indiscernible) right now an ADA document. It  
6 is a document that basically states the rights  
7 you have, thank you sir. Could you read that  
8 out loud to us please?

9 ATTORNEY SATRIS: Let me just ask there  
10 wont be any problems with the microphones  
11 picking up the voices, like yourself, with the  
12 way the mikes are positioned is it a pretty good  
13 setup? Because a lot of time there is  
14 indiscernibles that end up in the reporters  
15 transcripts.

16 PRESIDING COMMISSIONER LEE: Unfortunately  
17 the board has been particular issue and I will  
18 have to leave that to the Deputy Commissioner  
19 Thompson.

20 DEPUTY COMMISSIONER THOMPSON: They were  
21 all tested before we began. Everything tested  
22 as recording and appropriate. Unfortunately I  
23 am not an electronics skilled person but the  
24 staff that did set them up is and vouches that

25 the test was positive for proceeding.

26 ATTORNEY SATRIS: This room does have some  
27 more background noise than some of the others.

1           PRESIDING COMMISSIONER LEE: Correct but at  
2 this point and time what I can when we switch  
3 the tape over I will ask the Deputy Commissioner  
4 to check it, to see how well it picked up. So  
5 at this point and time will you read the ADA  
6 statement?

7           INMATE CARRANZA: Ok, The Americans with  
8 Disabilities Act, ADA, is a law to help  
9 people with disabilities. Disabilities  
10 are a problem that make it harder for  
11 some people to see, hear, read, talk,  
12 walk, learn, think, work or take care  
13 of themselves than it is for others.  
14 Nobody can be kept out of public places  
15 or activities because of a disability.  
16 If you have a disability, you have a  
17 right to ask for help to get ready for  
18 your BPT hearing, get to the hearing,  
19 talk, read forms and papers, and  
20 understand the hearing process. BPT  
21 will look at what you asked for to make  
22 sure that you have a disability that is  
23 covered by the ADA, and that you have  
24 asked for the right kind of help. If  
25 you do not get help or if you don't  
26 think you got the kind of help you  
27 need, ask for a BPT 1074 Grievance

1 Form. You can also get help to fill it  
2 out.

3 PRESIDING COMMISSIONER LEE: All right  
4 thank you. Sir did you understand what you just  
5 read?

6 INMATE CARRANZA: Yes I do.

7 PRESIDING COMMISSIONER LEE: All right, did  
8 you have any problems getting here today?

9 INMATE CARRANZA: No.

10 PRESIDING COMMISSIONER LEE: All right do  
11 you have any problems with your eyesight?

12 INMATE CARRANZA: A little bit, I wear  
13 glasses.

14 PRESIDING COMMISSIONER LEE: Ok, that was  
15 my second question. With your glasses do you  
16 have any problems?

17 INMATE CARRANZA: No.

18 PRESIDING COMMISSIONER LEE: All right do  
19 you need them to read or merely to see far?

20 INMATE CARRANZA: Just to read.

21 PRESIDING COMMISSIONER LEE: Ok, did you  
22 have the glasses when you went over your Central  
23 File?

24 INMATE CARRANZA: Yes I did.

25 PRESIDING COMMISSIONER LEE: Ok at this  
26 point and time have you ever been involved in  
27 either the Triple CMS or EOP programs?



1 INMATE CARRANZA: No.

2 PRESIDING COMMISSIONER LEE: Did you take  
3 any type of psychotropic medication?

4 INMATE CARRANZA: No sir.

5 PRESIDING COMMISSIONER LEE: Have you ever  
6 been in any special education courses?

7 INMATE CARRANZA: No.

8 PRESIDING COMMISSIONER LEE: Do you suffer  
9 from any disability to your knowledge that would  
10 prevent you from participating in today's  
11 hearing?

12 INMATE CARRANZA: Say it again?

13 PRESIDING COMMISSIONER LEE: Do you suffer  
14 from any disability that would prevent you from  
15 participating fully in today's hearing?

16 INMATE CARRANZA: No sir.

17 PRESIDING COMMISSIONER LEE: Ok, Mr. Satris  
18 do you know of any ADA issues that we need to  
19 address?

20 ATTORNEY SATRIS: No we are prepared to  
21 proceed on that basis.

22 PRESIDING COMMISSIONER LEE: This hearing  
23 is this hearing is being conducted, pursuant to

24 Penal Code Sections number 3041 and 3042 as well  
25 as the rules and regulations of the Board of  
26 Parole Hearings. Governing parole consideration  
27 hearings for life inmates. The purpose of

1 today's hearing is to consider your suitability  
2 for parole. In doing so we will consider the  
3 nature, number of crimes you were committed for,  
4 prior criminal and social history, and your  
5 behavior and programming since your commitment.  
6 We have had an opportunity to review your  
7 Central File, and your prior transcript and you  
8 will be given an opportunity to correct or to  
9 clarify on the record. We will consider your  
10 progress since your commitment, your counselors  
11 report, your psychological report, and any  
12 changes of parole plans should be brought to our  
13 attention. I will indicate to counsel and I  
14 apologize to both counsels that our checklist is  
15 inadequate. The problem being is that there has  
16 been some issues in regards to getting documents  
17 out. Does everyone have the latest board report  
18 as well as the psychological report?

19 ATTORNEY SATRIS: I do.

20 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

21 DEPUTY DISTRICT ATTORNEY DELAGARZA: I do  
22 thank you.

23 PRESIDING COMMISSIONER LEE: All right very

24 good. At this point and time I will indicate  
25 that we expect at this time to you to be totally  
26 honest with us today. This is your initial  
27 hearing. What that means is that if you are

1   unfortunate enough to not get a date today, this  
2   will be the foundation for all of your future  
3   hearings. If you mistake something or tell a  
4   lie at this hearing that will be transcribed it  
5   will be on the record. If you do not get a date  
6   today I will indicate to you any false statement  
7   you make will have an adverse effect on your  
8   ability to get a date in the future. However  
9   you are not required to discuss the facts of the  
10  case, and that is your right. Nothing that  
11  happens here today will change the findings of  
12  the court, we are not here to retry your case.  
13  Our purpose is solely to determine your  
14  suitability for parole. This hearing will be  
15  conducted in three phases. I will handle your  
16  social history as well as the facts of the  
17  crime. I will then turn it over to the Deputy  
18  Commissioner who will then discuss with you your  
19  programming while incarcerated as well as your  
20  psychological report. Then we will discuss your  
21  future plans including any letters of support as  
22  well as letter of opposition. There are notices  
23  that are sent out pursuant to 3042, which are  
24  sent out to various organizations and  
25  individuals who have special interest in your  
26  case. We do have a response. We have a  
27  response not only by the victim's next of kin

1 but also from the District Attorney's office of  
2 Los Angeles County. District Attorney has an  
3 opportunity to ask you questions and make a  
4 statement at the end of this hearing. The  
5 commissioners, the Deputy District Attorney and  
6 your attorney will be given opportunities to ask  
7 you questions, the questions however from the  
8 District Attorney will be addressed through the  
9 chair and your questions will be directed toward  
10 the panel. Before we recess for deliberations  
11 the Deputy District Attorney, your attorney and  
12 you will be given an opportunity to make a final  
13 statement, your statement will be limited to as  
14 to why you feel you are suitable for parole. We  
15 will recess, clear the room and deliberate.  
16 Once we have completed our deliberations we will  
17 resume the hearing and announce our decision.  
18 Pursuant to California code of regulations it  
19 states that regardless of time served a life  
20 inmate shall be found unsuitable and denied  
21 parole if in the judgment of the panel the  
22 inmate poses an unreasonable risk to society if  
23 released from prison. You have certain rights.

---

24 These rights include a timely notice of this  
25 hearing, the right to review your Central File,  
26 and the right to present relevant documents. At  
27 this time counsel are there any documents you

1 wish to submit?

2 ATTORNEY SATRIS: No.

3 PRESIDING COMMISSIONER LEE: And to the  
4 best of your knowledge has your client received  
5 his notice in regards to this hearing and review  
6 of his Central File?

7 ATTORNEY SATRIS: Yes, except for certain  
8 notices. We did not receive notice that the  
9 District Attorney would be appearing or that  
10 there would be an appearance by the kin of the  
11 victims. And we did not receive timely notice  
12 of the District Attorney's submission. It was  
13 received by my office on April 13, 2006, I had  
14 not been in to see Mr. Carranza since then. He  
15 never received a copy of the submission. I had  
16 seen Mr. Carranza ten days before the hearing to  
17 make sure that we were fully informed. So I had  
18 briefly had a little time before this hearing to  
19 discuss the unnoticed matters. We are prepared  
20 to proceed but I did want to make that part of  
21 the record.

22 PRESIDING COMMISSIONER LEE: I will  
23 indicate to counsel that, that is a concern and  
24 we have attempted to address that. Often times  
25 the District Attorney sends the items out  
26 properly but based upon our lack of staff we  
27 don't get it out to you, and take my apologies.

1           ATTORNEY SATRIS: I think this time it was  
2 sent timely from the dates I see on this paper  
3 but it didn't get to me on time. And to this  
4 moment it has not gotten to Mr. Carranza.

5           PRESIDING COMMISSIONER LEE: However you  
6 are ready to proceed?

7           ATTORNEY SATRIS: We are.

8           PRESIDING COMMISSIONER LEE: All right. I  
9 am not exactly sure what that noise was but we  
10 will continue on unless they tell us there is a  
11 fire. All right you have an additional right  
12 sir to be heard by an impartial panel. Do you  
13 have any objections to the panel?

14          INMATE CARRANZA: No.

15          PRESIDING COMMISSIONER LEE: You will  
16 receive a copy of our written tentative decision  
17 today, that decision becomes effective within  
18 120 days. A copy of the decision and a copy of  
19 the transcript will be sent to you. You are not  
20 required to admit your offense. But the panel  
21 does accept as true the findings of the court.  
22 We do not have an appellate right but we do  
23 however have a grievance procedure pursuant to

24 administrative decisions 0401. As I have  
25 indicated to you I do not have an exhibit to  
26 submit to counsels. If there becomes an issues  
27 in regards to documents please let me know and

1 we will discuss that at that time. At this time  
2 sir would you raise your right hand? Do you  
3 solemnly swear or affirm to tell the truth, the  
4 whole truth and nothing but the truth?

5 INMATE CARRANZA: Yes I do.

6 PRESIDING COMMISSIONER LEE: Is your client  
7 going to discuss with us the facts of the case?

8 ATTORNEY SATRIS: He is going to exercise  
9 the right you described about not discussing the  
10 facts. But he is prepared to otherwise speak to  
11 the board on matters related to parole.

12 PRESIDING COMMISSIONER LEE: Ok, very good.

13 ATTORNEY SATRIS: His position and our  
14 position is that we understand the board does  
15 accept the court findings and is not here to  
16 retry the case and we similarly accept the  
17 findings and are not here to retry the case.

18 PRESIDING COMMISSIONER LEE: Very good. Ok  
19 we will begin. The inmate was born on November  
20 18, 1959 in and I am not exactly sure how we  
21 pronounce this, Zacatecas Mexico. To the union  
22 of Maria and Jose Carranza. Carranza's parents  
23 have been married for 50 years. The inmate

---

24 completed elementary school in Mexico and moved  
25 to Palatine Illinois at the age of 15 years old.  
26 The inmate did not finish his education in the  
27 United States but gained employment doing



1 landscaping and day laborer. On February 11,  
2 1977 the inmate married Theresa Silva in  
3 Palatine Illinois. The inmate has been married  
4 to Theresa for 29 years. From this union then  
5 have one child Linda who is age 27. She is  
6 currently a registered nurse in Illinois. The  
7 inmate also has another child, Eric, who he  
8 fathered with Lupe Vargas. Eric is currently  
9 working as a Mercedes mechanic in Fremont  
10 California. In 1979 the inmate and his family  
11 moved from Illinois to California where the  
12 inmate obtained employment in a paper  
13 manufacturing company making envelopes and  
14 writing tablets. The inmate began to use  
15 cocaine heavily in California. And began to  
16 sell cocaine apparently to support his habit.  
17 As far as previous contacts the inmate as far as  
18 we know has no juvenile contacts. Adult  
19 contacts he had a drunk driving that apparently  
20 was reduced, well I take that back. This was in  
21 1980. He also has, was arrested I should say  
22 for a drunk driving in the following month in  
23 April. The inmate was ordered to attend a drug  
24 and alcohol program at that time. In 1984 the  
25 inmate was in possession of a controlled  
26 substance. Sir what were you arrested for in  
27 1984, do you remember?

1 INMATE CARRANZA: Yes I was arrested in  
2 possession of a weapon. A gun and cocaine.

3 PRESIDING COMMISSIONER LEE: All right,  
4 cocaine?

5 INMATE CARRANZA: Yes.

6 PRESIDING COMMISSIONER LEE: Ok, why were  
7 you carrying a gun and having cocaine in 1984?

8 INMATE CARRANZA: I was living that  
9 lifestyle. I used to carry a gun.

10 PRESIDING COMMISSIONER LEE: Why did you  
11 carry a gun? Because of your drugs selling?

12 INMATE CARRANZA: Yes.

13 PRESIDING COMMISSIONER LEE: All right.

14 Apparently the inmate also has a federal  
15 conviction. What is your federal conviction  
16 for?

17 INMATE CARRANZA: They arrested me with  
18 cocaine.

19 PRESIDING COMMISSIONER LEE: This was in  
20 1987?

21 INMATE CARRANZA: Yes and they gave me six  
22 years in Federal Prison.

23 PRESIDING COMMISSIONER LEE: All right.

---

24 And then we have the current matter. On  
25 November 30, 1985 at approximately 1:33 a.m. the  
26 victim Raul Munoz and the inmate got into an  
27 argument over a quarter that had been placed on

1 a pool table by the inmate who was to play the  
2 next game of pool. According to the victim the  
3 quarter had fallen off the pool table and he  
4 attempted to tell the inmate that the quarter  
5 had fallen off. After trying to tell him two or  
6 three times the inmate appeared to be ignoring  
7 him, he had nothing to say. After a few moments  
8 the inmate faced the victim and stated in  
9 Spanish do you want me to kick your ass. At  
10 this time the victim Raul stood up and stated  
11 anytime you want. After they pushed and shoved  
12 one another a couple of times the victim stated  
13 if we are going to fight let's do it. Inmate  
14 suddenly backed down and resumed, got back into  
15 some type of conversation. The victim seeing  
16 that he was outnumbered left the bar and went  
17 and got his brothers, victim Juan and victim  
18 Pedro. When he returned to the bar he asked his  
19 two brothers to wait outside while he was  
20 inside, to see what the inmate was up to. Once  
21 inside the victim confronted the inmate however  
22 things calmed down and there was no actual  
23 physical confrontation. While things were  
24 coming down one or calming down I should say,  
25 the victim's friends excuse me, the inmates  
26 friend attempted to hit victim Raul but he was  
27 grabbed by victim Pedro. And victim Pedro

1 prevented him from doing so. At this time the  
2 owner of the bar told the suspects and the  
3 victims he didn't want any fighting inside the  
4 bar and asked them to calm down. After a short  
5 conversation the victim and the defendant  
6 apparently shook hands and it appeared that  
7 there was no more altercation. Consequently the  
8 victim decided to leave the restaurant and go  
9 home. As he was about to step out and leave the  
10 bar one of the inmate's friends told him he  
11 wanted to talk to him outside. Feeling there  
12 was going to be a possible fight the victim took  
13 off his jacket. Instead of having a physical  
14 altercation, strike that. Apparently there was  
15 some discussion and while this was being said  
16 the door of the bar opened and the inmate  
17 stepped out and pointed a handgun directly at  
18 the victim. The victim was about ten to twelve  
19 inches from the inmate when the inmate fired one  
20 round striking him in the neck. After shooting  
21 the gun the victim began to run, he was then  
22 shot in his leg. The victim Juan Munoz appeared  
23 to be frozen in terror and the inmate merely  
24 pointed the gun at him and shot him once.  
25 Victim Munoz said that his brother was a  
26 distance of approximately five feet away from  
27 him when he was shot. When this happened victim

1 Munoz said he ran towards the sidewalk area to  
2 get away from the inmate, in doing so he heard  
3 two more shots fired at him. None of these  
4 rounds apparently struck him. He then saw the  
5 inmate and one of his friends enter some type of  
6 vehicle and leave the location. At this point  
7 and time the witness indicated he noted his  
8 brother Juan lying on the ground in the parking  
9 lot. And later his cousin Sanchez came to help.  
10 At the hospital the victim was pronounced dead.  
11 At this point and time before we go any further  
12 I have stated on the record the inmates social  
13 history as well as his priors and the facts of  
14 the case. At this point and time sir this is a  
15 opportunity to make any corrections. Is there  
16 anything that I have indicated for which you  
17 feel is inaccurate or need explanation?

18 ATTORNEY SATRIS: Well let me speak to that  
19 at least in terms of the offense.

20 PRESIDING COMMISSIONER LEE: Let me  
21 (indiscernible) the question that I just did,  
22 all right. At first in regards to the social  
23 history and the priors is there anything the  
24 inmate wishes to clarify or respond to at this  
25 time?

26 INMATE CARRANZA: No sir.

27 ATTORNEY SATRIS: Let me just say on that

1 then. I think it might be useful to elaborate  
2 on that a little bit. On the background in  
3 terms of your wife and so forth. You know you  
4 know her from all the way back in Mexico.

5 INMATE CARRANZA: Yah.

6 ATTORNEY SATRIS: Could you just tell the  
7 board a little bit about that?

8 INMATE CARRANZA: About my wife?

9 ATTORNEY SATRIS: Yes meeting her, how you  
10 know her and the family and so forth?

11 INMATE CARRANZA: I knew my wife since we  
12 were in Mexico in Zacatecas. We were little on  
13 the ranch. You know her parents and my parents  
14 knew each other. They kind of grew up together  
15 too. Then we came to Chicago Illinois and I  
16 came across her again and we started dating and  
17 we got married. I have been with my wife for 29  
18 years.

19 PRESIDING COMMISSIONER LEE: And apparently  
20 she still supports you?

21 INMATE CARRANZA: Yes.

22 PRESIDING COMMISSIONER LEE: All right,  
23 where is she living, what city?

24 INMATE CARRANZA: She lives in Round Lake  
25 with my daughter.

26 PRESIDING COMMISSIONER LEE: Anything else  
27 counsel?

1        ATTORNEY SATRIS: Yes just about you are  
2 the eldest of eight is that right?

3        INMATE CARRANZA: Yes.

4        ATTORNEY SATRIS: Could you just briefly  
5 talk about your family?

6        INMATE CARRANZA: Ok, my father and my  
7 mother Jose Carranza and Maria (indiscernible) I  
8 am the oldest of eight children. We grew up on  
9 Mexico, then we came to the United States. And  
10 they went to school and they did something with  
11 their lives and I didn't, I took the wrong path.

12        PRESIDING COMMISSIONER LEE: We have quite  
13 a few letters and we will go through them  
14 shortly. Is there anything else you would like  
15 to tell us about your period of time while you  
16 were growing up anything that you would want us  
17 to know?

18        INMATE CARRANZA: Well --

19        PRESIDING COMMISSIONER LEE: Let me ask you  
20 this question straight out. Why did you get  
21 involved in drugs?

22        INMATE CARRANZA: I don't know. It is not  
23 like I planned to get involved in drugs. You  
24 know I was into going to bars with my uncles and  
25 cousins and you know I was introduced to drugs.  
26 And I got hooked on drugs.

27        PRESIDING COMMISSIONER LEE: Primarily



1 cocaine?

2 INMATE CARRANZA: Yes (indiscernible).

3 PRESIDING COMMISSIONER LEE: And alcohol?

4 INMATE CARRANZA: Yes.

5 PRESIDING COMMISSIONER LEE: All right, Mr.  
6 Satris anything else?

7 ATTORNEY SATRIS: No I think it can wait  
8 until the letters they will cover it.

9 PRESIDING COMMISSIONER LEE: At this point  
10 and time I will go to the next aspect and that  
11 is that the inmate has elected not to discuss  
12 the facts of the case so I will read the  
13 prisoners version from the April 2006 board  
14 report. On the evening of November 30, 1985 he  
15 went to the La Casa Blanca bar. I started to  
16 play pool, drink beer, and snort cocaine. When  
17 I got into an argument with Raul Munoz instead  
18 of trying to calm the situation down I responded  
19 at his level. In my macho mentality I thought  
20 it was considered week to back down from  
21 violence. After the heated argument Mr. Munoz  
22 left the bar and I stayed to continue to play  
23 pool. Just before the bar closed I went outside  
24 and saw Mr. Munoz and two men coming at me. Mr.  
25 Munoz was cursing at me and I reached over and I  
26 was quick to shoot--

27 ATTORNEY SATRIS: And I overreacted.

1           PRESIDING COMMISSIONER LEE: And I  
2 overreacted, excuse me. I overreacted and was  
3 quick to shoot them. After shooting them I got  
4 into my car and drove away. When I sobered up I  
5 realized what I had done, and the seriousness of  
6 my actions and fearing punishment I did not turn  
7 myself in. Back then I never thought about how  
8 destructive my lifestyle was, I was living a  
9 life that was out of control. I refused to take  
10 responsibility for myself and for those I hurt  
11 around me. I put my family through much pain  
12 and suffering. At this point and time I will  
13 stop the rest of the information is not related  
14 to the facts of the case. At this point and  
15 time sir I can ask you, I am not asking you in  
16 regards to the facts of the case, but you have  
17 been incarceration for approximately 20 years  
18 have you learned anything these last 20 years?

19           INMATE CARRANZA: Yes I learned first of  
20 all I learned English as a second language. And  
21 I got my GED equivalency. I got training as a  
22 peer health educator. And I work with Center  
23 force educating people, inmates upon their  
24 arrival to the institution. And I talk to them  
25 about the risk of HIV, AIDS, hepatitis,  
26 especially hepatitis C., and STD, Sexually  
27 Transmitted Diseases. And you know I have been

1 working for the last four years for them.

2 ATTORNEY SATRIS: I think maybe if I may  
3 to, I think the question is a little bit also  
4 directed at what have you learned about yourself  
5 and has that effected the attitude towards your  
6 criminal actions and the offense?

7 INMATE CARRANZA: Thank you. Well I came  
8 to realize upon my arrest, that they didn't  
9 arrest me they rescued me from my life of self-  
10 destruction and causing pain and suffering to  
11 other people.

12 ATTORNEY SATRIS: And particularly your  
13 attitudes about, about the crime that has  
14 brought you here to prison life?

15 INMATE CARRANZA: I really apologize for  
16 what I did. I wish I can go back and change  
17 things but that is impossible. I wish this  
18 never would have happened. I am totally sorry  
19 and I take full responsibility for the pain and  
20 suffering I caused the victims and their  
21 families. And I would like to ask them for  
22 their forgiveness. I am very sorry for what I  
23 did to them.

24 PRESIDING COMMISSIONER LEE: Ok, let me ask  
25 you have you been involved in any victims or  
26 groups here at San Quentin?

27 INMATE CARRANZA: No not yet, I am just

1 involved with AA.

2 PRESIDING COMMISSIONER LEE: One expects  
3 that people change over 20 years, have you  
4 changed sir?

5 INMATE CARRANZA: I feel and I know I am a  
6 totally different person. I am 46 years old and  
7 I am a totally different person.

8 PRESIDING COMMISSIONER LEE: How are you  
9 totally different?

10 INMATE CARRANZA: Because I am not the same  
11 person I was back then. Because I grow up,  
12 mature as a person. I am an older person. I  
13 became to know god in here.

14 ATTORNEY SATRIS: And have your values  
15 changed?

16 INMATE CARRANZA: (indiscernible).

17 ATTORNEY SATRIS: Could you explain to the  
18 board in those regards?

19 INMATE CARRANZA: Well back then I didn't  
20 care you know the lifestyle I was living. Now  
21 I, I think totally different. I care for other  
22 people I care for my family, my kids. And I try

---

23 to do good to people.

24 PRESIDING COMMISSIONER LEE: All right. I  
25 am not going to discuss with you NA or AA at  
26 this time because the Deputy Commissioner will  
27 discuss those with you shortly. However I will

1 in fact indicate--

2 DEPUTY DISTRICT ATTORNEY DELAGARZA:

3 Commissioner I can't hear you.

4 PRESIDING COMMISSIONER LEE: All right -

5 DEPUTY DISTRICT ATTORNEY DELAGARZA: I am  
6 sorry I can't hear you.

7 PRESIDING COMMISSIONER LEE: That's all  
8 right. I will speak up. I just basically  
9 indicated that I will not discuss AA and NA with  
10 the inmate since the Deputy Commissioner will  
11 discuss that with him shortly. Is that better?  
12 Can you hear me?

13 DEPUTY DISTRICT ATTORNEY DELAGARZA: That  
14 is fine thank you.

15 PRESIDING COMMISSIONER LEE: The phone was  
16 in the way. I will indicate to you sir if you  
17 are released at this point and time what will  
18 keep you from going back to that lifestyle you  
19 indicated earlier?

20 INMATE CARRANZA: I will seek some kind of  
21 support out there. AA or NA and I have the  
22 support of my family and I will never fail them  
23 anymore (sic).

24 PRESIDING COMMISSIONER LEE: You think that  
25 would be sufficient?

26 INMATE CARRANZA: I do.

27 ATTORNEY SATRIS: And your church is that

1 important also?

2 INMATE CARRANZA: Yes.

3 PRESIDING COMMISSIONER LEE: You say your  
4 church is there a particular church outside that  
5 you are associating with right now?

6 INMATE CARRANZA: Yes.

7 PRESIDING COMMISSIONER LEE: Which church  
8 is that?

9 INMATE CARRANZA: Jubilee Christian Center  
10 in San Jose.

11 PRESIDING COMMISSIONER LEE: Ok all right  
12 that is a very large church.

13 INMATE CARRANZA: Yes it is.

14 PRESIDING COMMISSIONER LEE: All right is  
15 there a prison ministry or do you happen to know  
16 someone there?

17 INMATE CARRANZA: Yes my son goes to that  
18 church and his pastor visits me from time to  
19 time.

20 PRESIDING COMMISSIONER LEE: Ok, when you  
21 say his pastor you are not talking about the  
22 senior pastor you are talking about the prison  
23 ministry pastor?

24 INMATE CARRANZA: No I am talking about the  
25 Jubilee Christian Center, the pastor for the  
26 Spanish ministry. The Spanish ministry, they  
27 have the English ministry (indiscernible).

1           PRESIDING COMMISSIONER LEE: All right.

2           INMATE CARRANZA: And we also have  
3 volunteers who come over here and talk to us  
4 about Jesus and the bible. And I have support  
5 from that to if I get released I have a place to  
6 go.

7           PRESIDING COMMISSIONER LEE: Now sir you  
8 indicated that there was a change in your life  
9 apparently you now know god better than you did  
10 before. When did this occur?

11          INMATE CARRANZA: Like in a few months  
12 after I got arrested.

13          PRESIDING COMMISSIONER LEE: Back in 1985?

14          INMATE CARRANZA: No, I got arrested in  
15 1987.

16          PRESIDING COMMISSIONER LEE: So somewhere  
17 around 1988?

18          INMATE CARRANZA: Yah somewhere around that  
19 time.

20          PRESIDING COMMISSIONER LEE: All right I  
21 have no further questions at this time. I will  
22 turn it over to the Deputy Commissioner, the  
23 Deputy Commissioner will discuss with you your

24 programming as well as your psychological  
25 report.

26          DEPUTY COMMISSIONER THOMPSON: Ok, thank  
27 you. You arrived in California in the



1 Correctional system in 1989. You had been I  
2 believe in Minnesota.

3 INMATE CARRANZA: Midland Michigan.

4 DEPUTY COMMISSIONER THOMPSON: Michigan  
5 pardon me. You finished some term there then  
6 came, you moved among various institutions for  
7 the next, then you were reduced in custody  
8 level. You were reduced in classification  
9 score. You apparently at this time have a score  
10 of zero classification or did they do the  
11 minimum for lifers?

12 INMATE CARRANZA: Yah they did a minimum  
13 for lifers, they gave us the 19 points.

14 DEPUTY COMMISSIONER THOMPSON: But up till  
15 then you had a classification score of zero.

16 INMATE CARRANZA: I had a minus.

17 DEPUTY COMMISSIONER THOMPSON: At this time  
18 disciplinary you have only one and that is a  
19 counseling chrono that you received in December  
20 of 2000 for being out of bounds. Is that  
21 correct?

22 INMATE CARRANZA: Yes.

---

23 ~~DEPUTY COMMISSIONER THOMPSON: And there~~  
24 has been none subsequent to that. Academically  
25 you did achieve your GED. When was that? What  
26 year?

27 INMATE CARRANZA: It was like in 1994 or

1 1995.

2 DEPUTY COMMISSIONER THOMPSON: 1994 or 1995

3 ok.

4 ATTORNEY SATRIS: Is it an actual GED?

5 INMATE CARRANZA: No an equivalent.

6 DEPUTY COMMISSIONER THOMPSON: It is an  
7 equivalence certificate. But it was achieved in  
8 1994 or 1995.

9 INMATE CARRANZA: It happened in Corcoran,  
10 late 1994.

11 DEPUTY COMMISSIONER THOMPSON: Late 1994.

12 And vocationally I didn't see any particular  
13 training. But you do have some certificates of  
14 completion. One is in I believe contagious  
15 disease and another is in general six hours of  
16 advanced disease training and then basic  
17 infectious disease training. Is that all you  
18 have?

19 INMATE CARRANZA: Yes I have some training  
20 too in substance abuse for drugs and alcohol and  
21 all of that stuff.

22 DEPUTY COMMISSIONER THOMPSON: Ok, that is

~~23 part of that so no vocational issues. So work~~

24 wise you have been a peer counselor and a health  
25 educator. You said for the last four years.

26 Was there any other work as such or work position  
27 that you were assigned to?

1       INMATE CARRANZA: Yes when I first got here  
2 in 1995 from Corcoran I came here and I started  
3 working in R and R, receiving and release. We  
4 would receive and release inmates. I worked  
5 there for about two and a half years and then  
6 they moved me to north block as a porter. I was  
7 a laundry man doing Landry for the incoming  
8 inmates from reception center. I did that  
9 until, I worked there for approximately 19,  
10 almost 2001 something like that. Then I went to  
11 work at the joint venture where they were paying  
12 me minimum wage. They removed me from that  
13 position because I have an active INS hold.

14       DEPUTY COMMISSIONER THOMPSON: Correct.

15       INMATE CARRANZA: So then I went to work to  
16 Centerforce. First I went through health  
17 training a five-day training. And then they  
18 offered me a job. I got hired by them and I  
19 have been working with them ever since.

20       DEPUTY COMMISSIONER THOMPSON: And then it  
21 seems you have become or perhaps were a master  
22 leather craftsman.

23       INMATE CARRANZA: Yes, I work with leather.

---

24 I make all kind of items, purses, wallets, and  
25 belts. I do tooling, carved, I make all the  
26 officers and staff what they wear their gear.  
27 Alarm holders, haircut cases, pepper spray

1 holders, double key holders and all that stuff.  
2 I make that, I put them in the gift shop for  
3 sale.

4 DEPUTY COMMISSIONER THOMPSON: And it says  
5 you have been successful in that to the extent  
6 that you send home money to put your children,  
7 help put your children through school and help  
8 your wife buy a home..

9 INMATE CARRANZA: Yes when they were going  
10 to school I was able to send, I had the  
11 privilege and blessing to send them money for  
12 books or whatever. And that is on the record  
13 too I think.

14 DEPUTY COMMISSIONER THOMPSON: It is?

15 INMATE CARRANZA: Yah, and I send money to  
16 my wife when we bought the house.

17 DEPUTY COMMISSIONER THOMPSON: And that  
18 house is in Round Hills?

19 INMATE CARRANZA: Round Lake.

20 DEPUTY COMMISSIONER THOMPSON: Round Lake  
21 Illinois. And she still has that home and still  
22 occupies it?

23 INMATE CARRANZA: Yes, she and my daughter.

---

24 DEPUTY COMMISSIONER THOMPSON: Yes your  
25 daughter who is a nurse. Now as to self-help  
26 you were on the AA and NA waiting list for two  
27 years. But you began going in this year, is

1 that correct?

2 INMATE CARRANZA: Yes.

3 DEPUTY COMMISSIONER THOMPSON: And you are  
4 still attending those on a regular basis?

5 INMATE CARRANZA: Yes and I will continue  
6 attending.

7 DEPUTY COMMISSIONER THOMPSON: All right on  
8 the psychological evaluation report that your  
9 counselor did for this hearing in this year of  
10 April 2006 it says you have a positive attitude.  
11 And you would benefit from remaining  
12 disciplinary free and that you it notes that you  
13 have family resources and employment resources  
14 as well.

15 INMATE CARRANZA: Yes.

16 DEPUTY COMMISSIONER THOMPSON: You were  
17 aware of that?

18 INMATE CARRANZA: Yes fully aware.

19 DEPUTY COMMISSIONER THOMPSON: Ok,  
20 anything, I wanted to go back. You have a  
21 certificate of appreciation you have actually  
22 four of them. Two from Center Point, one from  
23 the Protestant Chaplain Ministry, and what is

---

24 VVGSQ?

25 INMATE CARRANZA: That is the veterans  
26 Vietnam, Vietnam veterans group.

27 DEPUTY COMMISSIONER THOMPSON: Ok, so you

1 have also a certificate of appreciation from  
2 that group.

3 INMATE CARRANZA: From that group, yes.

4 DEPUTY COMMISSIONER THOMPSON: And then you  
5 have laudatory chronos. One, two, three, four,  
6 five, six, seven, eight laudatory chronos  
7 between October of 1999 and March 7, 2006. The  
8 last being from the Protestant Chaplain in  
9 recognition of your counseling work with the  
10 Spanish Christian community. And I want to make  
11 sure that is the extent of them. You have at  
12 least 18 letters of support. 17 were written in  
13 the year of 2005. And you received one in  
14 January of this year, January 3, 2006 from the  
15 Jubilee Christian Center. I think that was the  
16 church you were discussing earlier. Did we  
17 leave anything out about when you arrived, since  
18 you have arrived in CDC?

19 INMATE CARRANZA: Not that I recall.

20 DEPUTY COMMISSIONER THOMPSON: Ok, thank  
21 you then I would turn to the psychiatric or  
22 psychosocial evaluation. That was prepared on  
23 March 6, 2006. And they review many of the

---

24 factors that you and Commissioner Lee have  
25 already discussed. And I think we have touched  
26 on. The current diagnostic impression on AXIS I  
27 is adult anti social personality behavior

1 acculturation problem by history, alcohol  
2 dependence in a controlled environment, I  
3 presume they mean to say it is in remission.  
4 And cocaine dependence in a controlled  
5 environment would be in control. On AXIS II  
6 which is the mental disorder as opposed to  
7 disease there is no diagnosis. And on AXIS III  
8 which relates to physical symptoms or  
9 contributory causes they listed degenerative  
10 disc disease. On AXIS IV which is your overall  
11 approach they see your stressors as the life  
12 sentence itself. And you have a Global  
13 assessment of functioning of 85, which is a very  
14 good score. You were aware of this?

15 INMATE CARRANZA: Yes thank you.

16 DEPUTY COMMISSIONER THOMPSON: All right  
17 then they went to your contention that you shot  
18 the victim in self-defense and that he saw at  
19 least one man had a weapon. Is that your  
20 recollection of the event? Or did you not want  
21 to talk about that. I don't want to go into the  
22 facts of the case.

23 ATTORNEY SATRIS: I don't think it is, I

---

24 don't know how to say this. I think he would  
25 stand by his offense where he did say he did  
26 shoot to irrationally and I think to much. And  
27 that is what the verdicts reflect, the attempted



1 manslaughter and then the murder. But the  
2 evidence did show that there was a knife that  
3 was found at the scene where one of the victims  
4 had fallen.

5 DEPUTY COMMISSIONER THOMPSON: Ok we can  
6 move on. Next point within this, it is a very  
7 extensive report and reiterates a lot of the  
8 factors that have already been discussed. But  
9 we turned to the section of assessment of  
10 dangerousness. In a controlled environment the  
11 risk of violence is felt to be considered low.  
12 As would seem quite reasonable. If the risk  
13 assessment upon release to the community you  
14 don't have any of the dynamic factors related to  
15 violence in the opinion of the author. However  
16 there is a notation that should you relapse into  
17 drugs or alcohol then that risk factor would  
18 increase and that it would be a consideration.  
19 And it was recommended you build yourself as it  
20 were a safety net with AA and NA and any other  
21 support groups religious or whatever nature that  
22 you could find yourself connected with. And it  
23 seems that you said at one point your involvement  
24 in drugs as a seller resulted in your own use of  
25 drugs. And that you had at some point to get  
26 into that life to support your habit.

27 INMATE CARRANZA: Yes.

1       DEPUTY COMMISSIONER THOMPSON: And that you  
2 contend that you do not have a problem of  
3 substance abuse since you haven't used since you  
4 were incarcerated. And I would say that is a  
5 reasonable observation but hopefully there  
6 wasn't any that you could have used in the  
7 incarcerated situation. Though it is kind of  
8 one of those questions like we stop beating your  
9 wife no matter how you answer it, it is not  
10 going to be a good answer. He feels strongly  
11 that he has put this problem behind him and  
12 hopefully he has.

13       INMATE CARRANZA: I feel strongly that I  
14 have put that problem behind me. I mean there  
15 is drugs in prison and but you know alcohol and  
16 all that stuff but you know thank god I feel  
17 like I overcome that addiction. And I know  
18 those addictions you know caused me to do a lot  
19 of harm to people. And I consider that  
20 addiction my enemy. I consider that it is like  
21 kissing a cobra. I feel that way. But I still  
22 feel like I will benefit out there and here and  
23 out there from self-help groups, support groups.

---

24       DEPUTY COMMISSIONER THOMPSON: What I would  
25 say in the least is it couldn't hurt and  
26 hopefully they would help.

27       INMATE CARRANZA: Oh yes.

1 DEPUTY COMMISSIONER THOMPSON: And it  
2 concludes essentially and the report is by a  
3 Michael Lynn Ynava PhD. That or is it Michelle.

4 ATTORNEY SATRIS: Michelle?

5 DEPUTY COMMISSIONER THOMPSON: It is  
6 Michelle Lynn Ynava PhD., which again was done  
7 on March 6, 2006. That you would benefit from  
8 further discussion of the facts surrounding your  
9 offense and would hope that this could begin in  
10 the near future. As his parole plans seem  
11 likely to proceed. And she would hope for or  
12 believe that if the same factors of drugs and  
13 alcohol did not recur in your life, violence  
14 would hopefully not be likely to reoccur. But  
15 should they recur problems would likely suffice.  
16 And basically that concludes what I have gleamed  
17 from this report. At this time do you have any  
18 thing you want to add or point out that I didn't  
19 cover or address?

20 INMATE CARRANZA: Like I said before I  
21 would like to get into a program you know like  
22 empathy for victims and --

23 DEPUTY COMMISSIONER THOMPSON: I am sure  
24 whatever self-help programs are offered at San  
25 Quentin if you can have the time and the  
26 opportunity would all be beneficial to you. And  
27 you should address entering them if you can. I

1 think those would all be positive influences.  
2 But if you have no particular question I would  
3 reiterate there is an active US INS hold and a  
4 strong liability that is you would be deported  
5 upon any release to parole. And you do have  
6 some plans in Mexico and I do have something to  
7 address in the parole planning issue. Or the  
8 parole goals if you will. And when we get to  
9 that section I will take those on accordingly.  
10 Is there anything you have a question about as I  
11 say that I have touched on at this point?

12 **ATTORNEY SATRIS:** Let me just say back to  
13 the psychiatric report just to elaborate on the  
14 notion that he does not have any dynamic factors  
15 related to violence. Dynamic meaning anything  
16 that can change. So all of the changes have  
17 been away from violence. And what the doctor  
18 goes on to say there is no recent history of  
19 loss of control or impulsive behavior. He does  
20 not appear to be at all an angry person. He is  
21 grateful to his wife and family for their  
22 generous support of him over the years. And he  
23 has demonstrated a capacity for empathy and  
24 compassion, although that can be further  
25 developed. And then it goes on to talk a little  
26 bit at some length in ways that Mr. Carranza I  
27 think has already spoken about recognizing the

1 harm of his actions and the negative effect they  
2 have on everybody. It is a motivator for doing  
3 well in the future so --

4 DEPUTY COMMISSIONER THOMPSON: I think we  
5 agree. It touches on the matters we have  
6 discussed, expands them to some degree but the  
7 general tone I think is positive but at the end  
8 the prognosis is still to be hopeful. And I  
9 think it capsulate it all.

10 ATTORNEY SATRIS: Ok.

11 DEPUTY COMMISSIONER THOMPSON: And if there  
12 is no question at this point on the institution  
13 or post conviction factors I would move to the  
14 parole section.

15 PRESIDING COMMISSIONER LEE: I have a  
16 question we have disciplinary 128 December 1,  
17 2000, is that correct?

18 DEPUTY COMMISSIONER THOMPSON: That is  
19 correct.

20 PRESIDING COMMISSIONER LEE: Would the  
21 inmate like to tell us why he received the 128  
22 in December of 2000?

23 ATTORNEY SATRIS: I think we will rest on

---

24 the record there, it is a 128 it is not even a  
25 disciplinary rules violation report. I don't  
26 think there is to much more to add there.

27 PRESIDING COMMISSIONER LEE: All right, Mr.

# **EXHIBIT B**

## **Part 2 of 2**

1 Satris do you want to say something?

2 ATTORNEY SATRIS: I was just going to say  
3 if we are talking about chronos we didn't, we  
4 mentioned one, two, three, four, five, six,  
5 seven and eight laudatory chronos and but I  
6 would just say they address a range of behavior  
7 by Mr. Carranza relating to job performances is  
8 outstanding. The various donations he has made  
9 to victims and survivors for example on  
10 September 11 the children toys and candy around  
11 Christmas has also completed over a 100 hours of  
12 hatha yoga that is good for stress reduction and  
13 basic self knowledge and then has done the  
14 counseling work in the Spanish Christian  
15 community.

16 PRESIDING COMMISSIONER LEE: Very good  
17 however you are instructing your client at this  
18 time not to discuss with me what occurred on  
19 December 2000?

20 ATTORNEY SATRIS: One problem is, I don't,  
21 that chrono was not in the material that I  
22 received.

23 PRESIDING COMMISSIONER LEE: Are you  
24 indicating it is not in the Central File?

25 ATTORNEY SATRIS: No I am indicating it is  
26 not in the lifer packet. If you will give me a  
27 moment, let me see what I have, I thought that



1 the chrono laudatory and negative are typically  
2 included in the packet but they weren't.

3 PRESIDING COMMISSIONER LEE: No that is  
4 just a summary.

5 ATTORNEY SATRIS: Out of bounds, do you  
6 want to speak about the out of bounds Mr.  
7 Carranza?

8 INMATE CARRANZA: I think I was just out of  
9 bounds. They had some lines in the lower yard  
10 you know some lines and I work close to R and R  
11 and there are some lines that the inmates are  
12 not supposed to cross. And I work there, I work  
13 there and the officer gave me a verbal  
14 counseling and I explained to him that I was a  
15 worker but he never asked me for my work card.

16 PRESIDING COMMISSIONER LEE: Ok, Deputy  
17 Commissioner how are we doing on the tape.

18 DEPUTY COMMISSIONER THOMPSON: I believe, it  
19 looks like we have a reasonable amount left. It  
20 looks like there is maybe an eighth of a tape  
21 left at this point.

22 PRESIDING COMMISSIONER LEE: All right we  
23 will continue on.

---

24 DEPUTY COMMISSIONER THOMPSON: Sufficient  
25 to go through the parole I am sure and then  
26 maybe we ought to turn it to be on the safe  
27 side.

1           PRESIDING COMMISSIONER LEE: All right.

2           DEPUTY COMMISSIONER THOMPSON: I think my  
3 technical consultant would agree and I  
4 appreciate that. Mr. Montgomery is in here in  
5 the room with us. I will indicate the following  
6 future parole plans for the inmate. The inmate  
7 if paroled to California would like to stay with  
8 his son Eric in Fremont California. The inmate  
9 has indicated if he is deported to Mexico he  
10 wishes to stay on the family estate. And we  
11 have a letter of support dated November 16, 2005  
12 this was translated apparently. I will read  
13 that into the record. I will indicate we have  
14 numerous letters on behalf of the inmate from  
15 various family members. And I am not going to  
16 read each one into the record. I will state  
17 that this letter is from the inmate's father and  
18 his mother. We are aware that our son Alfonso  
19 Carranza is in prison for murder and involuntary  
20 homicide. We understand that those are vary  
21 serious offenses of the law. We understand that  
22 murder happened when he was young and immature.  
23 But now he is mature, we are appealing to you  
24 the authorities for your support and humanity.  
25 We are prepared to help the inmate economically  
26 since we have properties, which consist of a  
27 farm with land and cattle, which we are ready to

1 give him so he may live without any problems.  
2 Assets we have in Mexico specifically located in  
3 the municipality of Escobeto Mexico can be  
4 verified. And that letter I believe was dated  
5 in 2005. The inmate does have an INS hold. If  
6 however he is released to California he has a job  
7 offer and that is with Fremont Foreign Auto  
8 located in Fremont California. So as far as the  
9 letters as I have indicated I will not go  
10 through all the letters. I will indicate  
11 letters from Elia Mario, and Silvia Sergio Real,  
12 Carlos Carranza, Jose and Maria Carranza,  
13 Ricardo Carranza, Marisa Silva, Celeste Vargis,  
14 Linda Carranza, Theresa Carranza, Eduarda Porta,  
15 Geronemo Pueteres, Maribel Munoz Alonzo, Jessica  
16 Rio, Silvano Bueno, Javier Carranza, Jubilee  
17 Christioan Center, and there are letters of  
18 appreciation from VVGSO, Center force  
19 incorporated, and Protestant Chapel ministries.  
20 Counsel in light of the fact I am not going to  
21 go through each one of the letters is there  
22 anything you wish to highlight at this time?

23 ATTORNEY SATRIS: The only thing I would  
24 like to highlight is the letter from his wife.  
25 It talks about their longstanding relationship  
26 and she basically has what I think Mr. Carranza,  
27 it may be in the paperwork, what he described to

1 me as an unconditional love for him. So that  
2 she is prepared to assist him in the transition  
3 back to Mexico which is where she is from. And  
4 she is prepared to go back.

5 PRESIDING COMMISSIONER LEE: It is my  
6 understanding that she is not in the state of  
7 California, is that correct?

8 INMATE CARRANZA: She is in Illinois.

9 PRESIDING COMMISSIONER LEE: She came up  
10 for your anniversary?

11 INMATE CARRANZA: Yes she comes two or  
12 three tiems a year. Also my daughter came like  
13 a month ago.

14 ATTORNEY SATRIS: And that the letters do  
15 reflect a large family he is from and the  
16 support that everybody is prepared to provide  
17 him or has provided him during his incarceration  
18 and continue to provide him if he is released.

19 PRESIDING COMMISSIONER LEE: It is very  
20 clear he has substantial family support at this  
21 time. All right at this point and time I will  
22 turn it over to questioning. Deputy  
23 Commissioner do you have any questions in

---

24 regards to the matter?

25 DEPUTY COMMISSIONER THOMPSON: No thank you  
26 Commissioner I do not.

27 PRESIDING COMMISSIONER LEE: All right, I

1 will turn it over to Ms. Delagarza. Ms.  
2 Delagarza do you have any questions of the  
3 inmate?

4 DEPUTY DISTRICT ATTORNEY DELAGARZA: I do  
5 have some questions. The first question is  
6 could the panel ask the inmate I read in one of  
7 the reports after the killing of Mr. Munoz the  
8 inmate was involved in another bar killing in  
9 Kansas, is that correct?

10 ATTORNEY SATRIS: Again we will rest on the  
11 record there. There was an acquittal. There  
12 were charges presented, he was involved in it  
13 Mr. Carranza do you want to speak to whether you  
14 see any kind of connection or relation between  
15 those charges and the offense you are in here  
16 for now?

17 INMATE CARRANZA: Yah it was related  
18 because I was living a life of destruction. A  
19 life out of control. I was involved with drugs  
20 and all of that stuff.

21 PRESIDING COMMISSIONER LEE: So you are  
22 indicating that there was another bar fight?  
23 Subsequent to this one?

---

24 INMATE CARRANZA: Yes.

25 PRESIDING COMMISSIONER LEE: And you were  
26 actually tried in another state but were  
27 acquitted, is that right?

1 INMATE CARRANZA: Yes.

2 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

3 DEPUTY DISTRICT ATTORNEY DELAGARZA: But he  
4 did actually shoot and kill another individual  
5 is that correct?

6 ATTORNEY SATRIS: I think we will rest on  
7 the record. I mean it is an acquittal.

8 DEPUTY DISTRICT ATTORNEY DELAGARZA: Well  
9 if he --

10 PRESIDING COMMISSIONER LEE: Ms. Delagarza  
11 hold on. Hold on. Let me pose the question.  
12 At this point and time is your client going to,  
13 will the client answer the question from the  
14 District Attorney?

15 ATTORNEY SATRIS: We are prepared. It was  
16 a self-defense, a finding of an acquittal on  
17 self-defense. Yes that is what he is talking  
18 about.

19 DEPUTY DISTRICT ATTORNEY DELAGARZA: I am  
20 going to ask that the inmate be allowed to  
21 answer my questions not the attorney.

22 PRESIDING COMMISSIONER LEE: Ok, Ms.  
23 Delagarza I will conduct the hearing. I know

---

24 exactly what you are saying. Let me handle  
25 this. Mr. Satris is your client deciding to not  
26 discuss what occurred in regards to the incident  
27 after this hearing, I mean after this incident.

1           ATTORNEY SATRIS: He can answer that  
2 question, I already have but he can answer that  
3 question yes or no.

4           PRESIDING COMMISSIONER LEE: Go ahead sir.  
5 The question was did you shoot someone in  
6 another bar incident?

7           INMATE CARRANZA: Yes.

8           PRESIDING COMMISSIONER LEE: All right next  
9 question.

10          DEPUTY DISTRICT ATTORNEY DELAGARZA: And  
11 the next question is on the date he was arrested  
12 in Colorado at that time besides the drugs was  
13 he also in possession of weapons?

14          PRESIDING COMMISSIONER LEE: You may  
15 answer?

16          ATTORNEY SATRIS: I would direct him not to  
17 answer that.

18          PRESIDING COMMISSIONER LEE: All right,  
19 next question.

20          DEPUTY DISTRICT ATTORNEY DELAGARZA:  
21 Besides himself, according to the report there  
22 was another individual by the name of Linda who  
23 was arrested with the inmate. Who was Linda?

24          ATTORNEY SATRIS: What are we talking about  
25 now?

26          DEPUTY DISTRICT ATTORNEY DELAGARZA: The  
27 Colorado arrest.



1           PRESIDING COMMISSIONER LEE: All right lets  
2 clarify now. You were arrested in Colorado was  
3 there another individual by the name of Lind  
4 with you and who is Linda?

5           ATTORNEY SATRIS: Yah I would direct him  
6 not to go into the details of a case on which he  
7 was acquitted.

8           PRESIDING COMMISSIONER LEE: All right next  
9 question.

10          DEPUTY DISTRICT ATTORNEY DELAGARZA: Let me  
11 object, he was not acquitted of that one. We  
12 are talking about Colorado where he was arrested  
13 for drug sales. There were two people actually  
14 arrested one of them was an individual by the  
15 name of Linda. This was a conviction not an  
16 acquittal.

17          PRESIDING COMMISSIONER LEE: Ms. Delagarza  
18 the inmate does not have to respond, I will  
19 allow him to respond. You can certainly argue  
20 this in your final statement. However at this  
21 point and time do you wish to respond in regards  
22 not the acquittal the shooting, but your arrest  
23 in Colorado?

---

24          ATTORNEY SATRIS: We rest on the record on  
25 that. That is in the material so I will direct  
26 him not to answer those questions that go beyond  
27 the record in this case before the board.

1           PRESIDING COMMISSIONER LEE: He has the  
2 right not to respond. I have no sanction  
3 authority here, obviously the District Attorney  
4 can make whatever statement she thinks is  
5 appropriate when it is her opportunity. Ms.  
6 Delagarza next question.

7           ATTORNEY SATRIS: Let me can I just the  
8 whatever argument given at the end has to based  
9 on the record before the board correct?

10          PRESIDING COMMISSIONER LEE: Correct.

11          ATTORNEY SATRIS: All right.

12          PRESIDING COMMISSIONER LEE: Go ahead.

13          DEPUTY DISTRICT ATTORNEY DELAGARZA: My  
14 next question is was the person Linda his  
15 daughter Linda Carranza or some other Linda?

16          ATTORNEY SATRIS: We have already made  
17 clear our position on going into any details  
18 beyond the record that is already before the  
19 board and that we are prepared for.

20          PRESIDING COMMISSIONER LEE: Next please.

21          DEPUTY DISTRICT ATTORNEY DELAGARZA: My  
22 next question is with respect to the  
23 psychological report in the psychological report

24 and I am referring to page number six in that  
25 report. It says in the second full paragraph  
26 Mr. Carranza contends that he does not himself  
27 have a problem with substance abuse since he has

1 not used while incarcerated. He feels strongly  
2 he has put this problem behind him. And that he  
3 would be able to refuse any offer of drugs. Mr.  
4 Carranza does not participate in NA or AA  
5 programming, as he does not feel he has a  
6 substance abuse problem. When did the inmate  
7 start in AA, since according to the March of  
8 2006 it indicated he was not involved?

9 PRESIDING COMMISSIONER LEE: Do you  
10 understand the question sir? It appears you are  
11 not involved in NA or AA you may have been--

12 INMATE CARRANZA: That is correct.

13 PRESIDING COMMISSIONER LEE: There may have  
14 been references in the past that you were  
15 involved, when were you involved  
16 (indiscernible)?

17 INMATE CARRANZA: I was on the waiting list  
18 for two years. And I was involved, I started  
19 attending sometime in March.

20 DEPUTY DISTRICT ATTORNEY DELAGARZA: I am  
21 sorry I couldn't hear what he said.

22 PRESIDING COMMISSIONER LEE: Could you  
23 speak up please?

24 INMATE CARRANZA: I was on the waiting list  
25 for two years. And I started to attend AA  
26 sometime in March.

27 ATTORNEY SATRIS: After your meeting with

1 the Doctor here, correct?

2 INMATE CARRANZA: Yes.

3 PRESIDING COMMISSIONER LEE: All right, so

4 that was the first time?

5 INMATE CARRANZA: Yes.

6 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

7 DEPUTY DISTRICT ATTORNEY DELAGARZA: I have

8 no other questions.

9 PRESIDING COMMISSIONER LEE: At this time

10 Mr. Satris do you have any questions of your

11 client?

12 ATTORNEY SATRIS: Yes let me pick up where

13 we were leaving off there about addictions and

14 so forth. Because it was mentioned earlier that

15 you have a degenerative disc disease, that

16 causes you some pain does it?

17 INMATE CARRANZA: In my back?

18 ATTORNEY SATRIS: Yes.

19 INMATE CARRANZA: Yes I had an MRI done.

20 ATTORNEY SATRIS: And you have been offered

21 medication for that?

22 INMATE CARRANZA: Yes.

23 ATTORNEY SATRIS: And what is your position

24 on that?

25 INMATE CARRANZA: I didn't want to take any

26 medication that would get me addicted to a

27 prescribed medication.

1           ATTORNEY SATRIS: So have you basically  
2 ignored the pain rather than take that  
3 medication?

4           INMATE CARRANZA: Yes.

5           ATTORNEY SATRIS: Now you talked a bit  
6 about your work for the past number of years for  
7 Center Force and the counseling of other inmates  
8 in connection with that.

9           INMATE CARRANZA: With drugs?

10          ATTORNEY SATRIS: With drugs and just  
11 generally HIV and so forth. Do you find meaning  
12 in your work?

13          INMATE CARRANZA: Oh, yes I do. I feel  
14 like I give back something to society because  
15 my counseling this guys about the risk of  
16 getting infected with HIV or other diseases. I  
17 have numerous occasions when this guys come back  
18 with results that they have HIV or they have  
19 hepatitis or some other kind of disease and they  
20 come talk to me. And I counsel them and I refer  
21 them to the doctor. Because a lot of these guys  
22 are Hispanics who don't understand English.

23          ATTORNEY SATRIS: Now is this work, do you  
24 have any interest or plans to pursue it if you  
25 are released?

26          INMATE CARRANZA: Yes I would like to  
27 continue that here, learning more and more. And

1 when I get out there in California or go back to  
2 Mexico. I would love to.

3 ATTORNEY SATRIS: Now you do have plans we  
4 have gone over in the event that you are not  
5 deported to Mexico. You do have plans in  
6 California?

7 INMATE CARRANZA: Yes.

8 ATTORNEY SATRIS: As have been gone over.

9 INMATE CARRANZA: Yes.

10 ATTORNEY SATRIS: It has been it was  
11 described here by the Deputy Commissioner that  
12 there was a quote on quote strong probability  
13 that you would be deported.

14 INMATE CARRANZA: Yes.

15 ATTORNEY SATRIS: Do you understand that  
16 the actual reality is that you will be deported?

17 INMATE CARRANZA: Yes I know that. I have  
18 been seeing hundreds of inmates over here in San  
19 Quentin they have INS holds and upon there  
20 release all of them have been deported. So --

21 ATTORNEY SATRIS: And in terms of  
22 continuing the counseling work you have done for  
23 Center force by going back to Mexico do you see

24 a need for you to do that work? Or a need that  
25 could be served by you doing that work?

26 INMATE CARRANZA: Yes we actually the  
27 agency contacted somebody in Zacatecas an

1 agency. It is called Zacatecas (indiscernible)  
2 that means the state of Zacatecas against AIDS.  
3 And you know --

4 ATTORNEY SATRIS: So there is an  
5 organization already in your local and you have  
6 taken steps to connect up with them.

7 INMATE CARRANZA: Yes.

8 ATTORNEY SATRIS: And you were telling me  
9 at one point I think I have this straight about  
10 an incident regarding a cell move. Where you  
11 got into or there was some conflict with another  
12 inmate do you remember that? Could you just run  
13 that down to the board and explain your kind of  
14 reaction and how you handled it and felt about  
15 that.

16 INMATE CARRANZA: That was this cell move  
17 and this inmate got to move out of his cell. He  
18 got mad at me because he thought that I had  
19 something to do with the cell move. And he came  
20 to my house, I was doing some leatherwork  
21 because I have an in cell hobby, I work with  
22 leather. So anyway he came and he was real  
23 angry. And to make a long story short he

24 attacked me. He hit me a few times over here--

25 ATTORNEY SATRIS: Just because we are on  
26 the record over here is along the shoulder--

27 INMATE CARRANZA: Along the shoulder and



1 over here. And yah and I was totally amazed and  
2 full of joy that I didn't respond. I did not  
3 even raise my hand. And I told him to god bless  
4 you when I say that he took off and I was just  
5 amazed and grateful and the same time because I  
6 wasn't planning on having that kind of  
7 experience. But in the same time I was grateful  
8 that I passed, that I passed the test without  
9 being prepared for it. And especially here in  
10 prison. And in this place there is some other  
11 nationals I get along with everybody. So I  
12 didn't told nothing to nobody this happened at  
13 night. And somehow they find out about it and  
14 they came to me and they wanted to hurt this guy  
15 because what he did, to them it was wrong. But  
16 I told them to leave him alone. That I you know  
17 that I forgave him and they still wanted to hurt  
18 him and again told them it was my decision and I  
19 said they should leave him alone. And he was,  
20 he has only one arm. And they went to talk to  
21 him and anyway they didn't hurt him so he came  
22 back and apologized to me. We hug each other  
23 and we pray and that was it. And I will you

---

24 know I will I would have liked, if I would have  
25 handled the situation the same way you know for  
26 what I did in 1985 to the victims. And again I  
27 say to the victim's family I am really sorry for

1 what I did. I pray to god one day they will  
2 find it in their hearts to forgive me. Because  
3 I have family and I would get hurt if somebody  
4 do something to them. So I pray for them and I  
5 understand they might hate me and they have all  
6 the reason, the right to do that. But I pray.  
7 for them I hope they will forgive me one day.  
8 You know what I did was wrong and I am  
9 responsible. And I am guilty.

10 PRESIDING COMMISSIONER LEE: Any further  
11 questions?

12 ATTORNEY SATRIS: No further questions  
13 thank you.

14 PRESIDING COMMISSIONER LEE: All right it  
15 is time we are going to go to statements.

16 DEPUTY COMMISSIONER THOMPSON: It might be  
17 better to change the tape.

18 PRESIDING COMMISSIONER LEE: We are going  
19 to take a brief recess while we change tapes.

20 DEPUTY COMMISSIONER THOMPSON: We are back  
21 on the record this will be side two tape one of  
22 the Carranza hearing. And if you wish to  
23 proceed with statements you now have tape.

24 PRESIDING COMMISSIONER LEE: Thank you all  
25 right at this point and time, we are waiting for  
26 one officer and we can begin. At this time we  
27 are ready to begin with statements Ms. Delagarza

1 you may be heard.

2 Los Angeles County opposes granting of a  
3 parole date for this inmate beginning with the  
4 inmate's criminality. He had an escalating  
5 pattern of criminality he had convictions for  
6 both drugs, alcohol, and in addition to that  
7 possession of guns. So we have this escalating  
8 pattern with respect to this inmate. All of  
9 them as I have indicated involving drugs,  
10 alcohol and guns. In respect to the life crime  
11 the inmate has failed to accept full  
12 responsibility when you look at the  
13 psychological report his claim is now a very  
14 self serving one, one of self defense. However  
15 if you read all the police reports including  
16 statements from victims including statements  
17 from witnesses who were in the bar it is clear  
18 that this was not an act of self-defense by the  
19 inmate. But it was actually a very cold  
20 calculated attempt on the part of this inmate to  
21 kill three individuals and he was successful as  
22 to one of them. He was involved initially in an  
23 argument with Raoul Munoz, Mr. Munoz left the  
24 bar, he came back to the bar and they again got  
25 into a verbal altercation. By everyone's  
26 statement it is clear that at some point it  
27 appeared that they shook hands and Mr. Munoz

1 left the bar along with his two brothers. As  
2 they were outside the inmate comes out and  
3 shoots all three of the individuals. There was  
4 no self-defense people were leaving the bar they  
5 were on their way home. According to the inmate  
6 he claims what he told the psychologist and what  
7 he told the counselors that he goes outside and  
8 he is accosted by the individuals. That was not  
9 what happened. There was no self-defense. And  
10 he has failed to both accept responsibility for  
11 the crime and he has no insight into his  
12 criminality. If that is not bad enough after  
13 leaving, having committed this murder and having  
14 committed these assaults on two other  
15 individuals attempted murder as to both of them.  
16 The inmate goes into another state and he is  
17 again responsible for the death of another  
18 individual. What is important about that is  
19 that he is again in possession of a weapon and  
20 he is again responsible for the shooting death  
21 of another human being. A little bit over a  
22 year later the inmate is arrested in Colorado.  
23 And again as to that particular offense looking  
24 at the police reports it is clear that not only  
25 is he trafficking drugs at that point but again  
26 when he is arrested he is again in possession of  
27 weapons. So we have somebody who is very much

1 entrenched in violence and who is responsible  
2 for the death and also the wounding of several  
3 individuals before he is finally arrested and  
4 incarcerated. Since the inmate has been in  
5 prison with respect to some aspects of his  
6 prison time it has been positive. He has got no  
7 115's and only the one 128a. However that is  
8 the only thing positive you can say about him.  
9 He has gotten no vocations in the entire time he  
10 has been in prison. Yes he has been involved in  
11 some programs but even if you look at the  
12 programs with respect to the Center Force it has  
13 been since March of 2005 and with respect to the  
14 AA it has only been since March of 2006 so we  
15 have somebody who has very minimal self-help, no  
16 vocations, and we have somebody who has  
17 marginally and has only started doing positive  
18 programming in prison. It is very nice that he  
19 did the toy drive and he helped by selling  
20 things on ebay to victims. But with respect to  
21 his own programming the fact that he has done  
22 the little self-help and again with the AA and  
23 NA somebody that has been involved in drugs and

---

24 alcohol as long as the inmate has. Somebody  
25 who's crimes according to his own statements  
26 were as a result of this involvement in drugs and  
27 alcohol this individual before we can be sure he

1 is safe to go into society we have to make sure  
2 that he is involved in programs that will make  
3 sure he will maintain his sobriety during the  
4 time he is released. As far as his parole plans  
5 are concerned while it is true he does have at  
6 least on paper parole plans for both United  
7 States and Mexico one of the troubling aspects  
8 of this inmate is that we know for sure he came  
9 into this country illegally, he had an arrest in  
10 San Diego for coming into the country illegally  
11 and what is very troubling is all of his family  
12 lives in the United States his wife, his  
13 daughter by his wife, his son by another  
14 individual, his parents, his brothers, his  
15 sisters all of them live in the United States.  
16 And with respect to the parole plans we would  
17 need to be sure that this inmate would not be  
18 coming back into the United States, should he be  
19 deported. And as everyone has said it is very  
20 clear that he will be deported. So I think that  
21 we have to make sure that whatever parole plans  
22 he has in Mexico are going to insure that he is  
23 not going to return to this country. Until he  
24 has a history of involvement in AA and NA until  
25 we know he has many years of involvement in  
26 self-help and until he accepts full  
27 responsibility for this crime we cannot be sure

1 he will not go out and continue in his  
2 criminality. We have an individual who has many  
3 victims. He is responsible for the death of two  
4 people, he is responsible for the wounding of  
5 two other individuals. Until we can be sure he  
6 would not continue to present a risk, he will  
7 continue to be a threat to society. We are  
8 asking for a five-year denial to make sure he  
9 has enough time to get the self-help he needs.  
10 And to also have sufficient years of involvement  
11 in AA and NA before he is released. Thank you.

12 **PRESIDING COMMISSIONER LEE:** Thank you Ms.  
13 Delagarza for your comments. Next we will go to  
14 Mr. Satris.

15 **ATTORNEY SATRIS:** Thank you. Before I  
16 close making the points I would like to make.  
17 Favoring the parole of Mr. Carranza let me  
18 correct a couple of miss statements in the  
19 closing by the Deputy District Attorney. Again  
20 we accept the findings of the court and are not  
21 here to relitigate. Mr. Carranza over and over  
22 has expresses in that exact sentiment in his  
23 acceptance of responsibility for the crimes that

---

24 he was convicted of. That includes murder. As  
25 he has said he shot to soon and he shot for to  
26 long. We don't have two counts of attempted  
27 murder in this case, as the District Attorney



1 characterized it. We have a finding of  
2 attempted voluntary manslaughter and that is  
3 critical because that shows that this isn't the  
4 kind of cold calculated attempt to kill three  
5 people that the District Attorney is now trying  
6 to promote in a retrial of the case. The  
7 manslaughter finding or attempted manslaughter  
8 does indicate apparent acceptance either a  
9 provocation or unreasonable or honest or  
10 unreasonable belief in the need for self-  
11 defense. And there is substantial evidence of  
12 course in the record that would support this.  
13 So the kind of one-sided distortion of the  
14 factual scenario in this case is not persuasive.  
15 And we are not going to respond in kind by not  
16 pointing out the evidence that is different than  
17 the evidence reflecting the jury's verdict.  
18 There is no question that there was, and I would  
19 accept or use the language of the District  
20 Attorney of an entrenchment in that kind of  
21 violent world of drugs and guns. And we know  
22 what happens when you have drugs and guns,  
23 violence results. That is why Mr. Carranza I  

---

24 think has characterized his arrest in this case  
25 as a kind of rescue. This is actually a  
26 situation where the criminal justice system  
27 worked as it is designed to and as we always

1 hope it will. It stops the person in their  
2 tracks and sits them down and gives them time  
3 and plenty of time to reflect upon their actions  
4 and what they have done and hopefully work out a  
5 change from that, that I will go on to later.  
6 But while I am on the subject on the correct  
7 statements from the record and I will just speak  
8 to the notions of the vocations now. In terms  
9 of Mr. Carranza has a job, resources waiting for  
10 him in Mexico. He will go to work immediately.  
11 There is not a vocation available in the CDC  
12 system that is going to facilitate or help him  
13 in that regard. The interesting thing is the  
14 job he has is probably the best kind of  
15 vocational training that he could receive. He  
16 actually does have a job offer in this country  
17 as a result to that work available to him. And  
18 as he stated this is an activity of beneficial  
19 use. He can put to for the betterment of  
20 society when he is released in Mexico, whether  
21 that would lead to an actual paying job or not  
22 is really beside the point from his point of  
23 view. He has got the means for work and he has  
24 got a very constructive positive activity to do.  
25 And that work with Center Force has not been  
26 just since March of 2005. That has been for  
27 four years. And as he stated he is going to

1 continue in that work. All right so I would ask  
2 the board to do what it indicated in the vary  
3 outset of this hearing of what it was going to  
4 do. Which is to consider Mr. Carranza for  
5 parole in accordance with Penal Code Section  
6 3041 and its own rules and regulations. That  
7 Penal Code Section provides that the board  
8 should normally grant a prisoner or set a parole  
9 date for a prisoner at his first parole hearing.  
10 This is Mr. Carranza's first parole hearing. It  
11 is even more appropriate in his case to do so  
12 than perhaps some other cases because of the  
13 length of time he has served to this point. So  
14 you can see the long post conviction record that  
15 he has. He was committed in 1989 and served  
16 time for the consecutive sentences for the  
17 multiple offenses that were involved in this  
18 case. The attempted voluntary manslaughter and  
19 the attempted murder before serving the time  
20 required to serve to become eligible for his  
21 life offense. And he has built up a remarkable  
22 record in that time. So I am going to now speak  
23 in terms of the board rules implementing the  
24 Penal Code Section to see if this is the kind of  
25 case for pursuant to the board's rules it should  
26 set a parole date for Mr. Carranza. We have the  
27 commitment offense certainly that weights the

1 other way. Under the boards rules in terms of  
2 multiple victims to start with that is a factor  
3 that leans towards a finding of unsuitability  
4 for parole. But what is important is that is  
5 only if that offense shows he presents a  
6 continuing danger at this point. Because we are  
7 talking about present dangerousness when we are  
8 talking about suitability for parole. The  
9 record makes it very plain in this case that  
10 kind of entrenched criminality at that time was  
11 a the product of a kind of destructive lifestyle  
12 he was living involving drugs and weapons.  
13 Those factors that underlie that behavior have  
14 been addressed and dealt with and he has adopted  
15 a set of values and a way of living that is  
16 totally contrary to that. And I think is best  
17 exemplified by that incident with the cell move.  
18 Where he gets attacked and does not respond  
19 impulsively, angrily or in any negative way.  
20 And that is the way I think the board is  
21 reasonably assured that Mr. Carranza is going to  
22 live out the rest of his life. So addressing  
23 the suitability factors you do see that they all  
24 apply here. Starting with the signs of remorse.  
25 Mr. Carranza has expressed it directly to the  
26 board today but you will also see in both the  
27 counselors report and the psychiatric report

1 that he has expressed his sorrow and remorse for  
2 his criminal acts that resulted in such a loss.  
3 As he said though you know those are words. And  
4 the way he has demonstrated his remorse is by  
5 changing his actions and doing whatever he can  
6 at this point to make up for that crime by  
7 positive constructive activity including  
8 changing his own life and helping others in ways  
9 that better society rather than to detract from  
10 it. In terms of pre offense factors. You have  
11 no juvenile record, the next factor in the  
12 suitability factors. You have really a life  
13 that Mr. Carranza led that was a conforming  
14 prosocial life until he did come to California,  
15 he did involve himself in drugs that vary  
16 clearly led to his criminal conduct. In that  
17 regard the next factor is lack of criminal  
18 history. He lacks any significant history of  
19 violent crime. And what you have is no violent  
20 criminality outside of this offense. This is  
21 his single act of criminal violence. Then you  
22 go to the next factor, which is a stable social  
23 history. Has the prisoner experienced

---

24 reasonably stable relationships with others.

25 And yes you can see he has. He has had a very  
26 stable upbringing and social background. There  
27 is no childhood maladjustment according to the

1 psychiatric report. You see the large prosocial  
2 intact family out of which Mr. Carranza comes  
3 from. His parents are literally still living on  
4 the same property in Mexico where they come  
5 from. There is no family history of mental  
6 illness, criminality or alcohol abuse. He knew  
7 his wife from childhood. He has been married  
8 since she was age 16 and he was age 17. He has  
9 maintained that relationship throughout. He has  
10 maintained relationships with his children, he  
11 has maintained relationships with all of his  
12 family. That is a factor that supports a  
13 finding of suitability here. You have then the  
14 next factor you look at. Institutional behavior  
15 has institution activities indicated an enhanced  
16 ability to function within the law upon release.  
17 And you see that first of all with the behavior  
18 of the remarkable record he has of being  
19 disciplinary free. No CDC 115's rule  
20 violations. You have him obtaining his  
21 education getting his equivalency high school  
22 degree as well as the English as a second  
23 language. And you can see actually great

---

24 progress in the TABE results there. And they  
25 you have the therapy and self-help programming.  
26 And I think you can see his work, let me just  
27 say work in addition to the education he has

1 been getting exceptional work reports from the  
2 beginning. You see in his most recent work it  
3 is an aspect of self-help programming too. He's  
4 acting as a counselor on behalf of other  
5 prisoners concerning HIV and concerning related  
6 dangerous activities including drug use, you  
7 have his religious activities that he has been  
8 laudated for again. And being an active in the  
9 ministry and counseling there. You have  
10 positive extra curricular activities. Lets say  
11 in terms of the leather craftsman you have a  
12 showing that he has been able to address on his  
13 own through his Christian principles and embrace  
14 a positive lifestyle. Putting away use of  
15 drugs, it is unfortunate that he had to wait for  
16 two years to begin the AA and NA program. It is  
17 understandable. I think the District Attorney  
18 does make a point that's this board should  
19 consider in terms of ensuring that, that becomes  
20 kind of an entrenched process of its own that AA  
21 treatment continue. Mr. Carranza says he is  
22 going to continue it. You can set a parole date  
23 for him, it is going to be in the future that is  
24 the idea, give prisoners a predictable time when  
25 they will be released. That is the design of  
26 Penal Code Section 3041. Make a condition of  
27 that parole grant that he continue in his AA



1 treatment, that is a basis for parole recision  
2 then if he does not. That is the best way to  
3 handle that issue of insuring that he continues  
4 with that programming, not by withholding a date  
5 from him so that you would never know when you  
6 were going to be released. Ok so then we go to  
7 the next and last factor and we see it applies  
8 as well. So that there is a unanimous showing  
9 of applicability of the suitability factors.  
10 And that is understanding and plans for the  
11 future. Has he developed realistic plans or  
12 skills that can be put to use upon release. You  
13 see he has done both in that case. He has his  
14 plans for what is most realistic, really the  
15 only realistic plan for the future is he is  
16 going to be deported to Mexico. And he is fully  
17 prepared for that. He has his wife ready to  
18 move as need be back there. I think that does  
19 address the concern somewhat expressed by the  
20 District Attorney that he is going to go down  
21 there an illegally cross the border. Again he  
22 is going to have his parents that are down there  
23 as well as his wife.

---

24 DEPUTY DISTRICT ATTORNEY DELAGARZA: Excuse  
25 me according to the parent's letter they live in  
26 the United States.

27 PRESIDING COMMISSIONER LEE: The letter I



1 read from Mexico indicates that their property  
2 is in Mexico and that is where they have a place  
3 for him to stay.

4 ATTORNEY SATRIS: Well let me clarify--

5 DEPUTY DISTRICT ATTORNEY DELAGARZA: It  
6 says we are living permanently in the United  
7 States, page two first line.

8 PRESIDING COMMISSIONER LEE: I understand  
9 counsel but the question is where will he stay  
10 and what will he do in Mexico. I don't care,  
11 there is no indication that he has to live with  
12 parents. The letter clearly indicates that he  
13 would be living in Mexico and that is where he  
14 would be working. Am I correct Mr. Satris?

15 ATTORNEY SATRIS: Say that again I was  
16 conferring with my client.

17 PRESIDING COMMISSIONER LEE: The letter  
18 that I read that was translated is that the  
19 inmate, this is the letter dated November 16,  
20 2005, the inmate will live in Mexico on their  
21 property is that correct?

22 ATTORNEY SATRIS: Right.

23 PRESIDING COMMISSIONER LEE: Ok.

24 ATTORNEY SATRIS: And they have substantial  
25 ties there. They are there right now. Whether  
26 there--

27 PRESIDING COMMISSIONER LEE: Whether they

1 go back and forth is irrelevant to me.

2 ATTORNEY SATRIS: Ok.

3 PRESIDING COMMISSIONER LEE: Ok.

4 ATTORNEY SATRIS: So let me move on then.

5 Let me talk for a minute about the Mexico plans  
6 and the likelihood of deportation. What is  
7 called the strong probability. What it is, is as  
8 certain a likelihood as can be and that is based  
9 on the law. Which provides that not only  
10 because Mr. Carranza was an undocumented alien  
11 at the time, which makes him deportable. He is  
12 deportable now as well because of the crime,  
13 which is part of the new legislation that was  
14 passed a few years back. And that is a very  
15 strict law that makes him first of all removable  
16 and requires mandatory detention during the  
17 course of the removal proceedings and that is  
18 under Eight USC Section 1226c. So there is no  
19 discretion by California not to offer Mr.  
20 Carranza to authorities. There is no discretion  
21 of federal authorities not to come and pick him  
22 up. And while immigration law provides for  
23 various 'acceptation's in certain circumstances

---

24 depending on the status of the wife and so  
25 forth, none of those exceptions apply under the  
26 provision where their inmate has committed, I  
27 forget how they call it exactly, but an

1 aggravated violent felony under 110143a. That  
2 makes him ineligible for cancellation of removal  
3 for voluntary departure or for political asylum.  
4 His only possible remedy under the law to avoid  
5 deportation is if it would involve torture if he  
6 went back there. He makes no claim, there is no  
7 claim of that. It is as guaranteed as can be  
8 that he is going to be deported. Now that is  
9 important not only for parole plans but for you  
10 to assess under the statute and regulations  
11 whether in fact the setting of a parole date for  
12 Mr. Carranza would unreasonably threaten public  
13 safety. And it would not. The very, very, very  
14 simple reason that he is never going to be  
15 setting foot in California again. He goes  
16 straight from confinement here to confinement  
17 under federal authorities, no bail, into  
18 removal. And the law further provides that once  
19 he is released or deported to Mexico there is no  
20 way for him to legally come back to the United  
21 States, he is permanently excluded. And if he  
22 came back illegally as the concern was expressed  
23 he would be subject to felony criminal  
24 prosecution and exposed to a federal prison  
25 sentence of up to 20 years. He is not going to  
26 risk that. I think you can be reasonably  
27 satisfied on that point. So there is no basis

1 to find that he would present and unreasonable  
2 risk rather, now I know the victims kin here  
3 will be speaking after me. I know that is  
4 pursuant to the board's rules that you were  
5 explaining off the record to them before and I  
6 would lodge an objection just in terms of due  
7 process because of notice but I know that is  
8 futile. The board is going to follow its rules  
9 in that regard but let me just say in closing as  
10 Mr. Carranza said he has totally changed and  
11 reformed himself. As we exactly hope that  
12 arrest and incarceration will do. And I for one  
13 was impressed with the remarks that were made at  
14 the time of sentencing by the victim's kin at  
15 that time. And in fact it was by one that was  
16 here now with the sister Cecelia who said she  
17 appreciated that justice has been done, I am  
18 paraphrasing a little bit there. I hope in the  
19 years to come he, Mr. Carranza, will reconsider  
20 his acts. And that hope expressed with great  
21 restraint by the victims kin has been fulfilled  
22 in this case. The board should recognize change  
23 and rehabilitation when it sees it. When it is  
24 across the table from it. And hold up that as a  
25 example of what we want prisoners to do in terms  
26 of reform and reformation. And set a parole  
27 date on that basis so that the law is followed.

1 Thank you.

2 PRESIDING COMMISSIONER LEE: Thank you Mr.  
3 Satris. At this time I am going to turn to the  
4 victims next of kin. And would you please  
5 indicate before the statement, your name again  
6 spell your last name and your relationship. And  
7 I will ask you to limit your self in regards to  
8 how the incident has impacted your lives and  
9 those in your family. And the reason being is  
10 that sometimes information comes out from  
11 another source, I heard about this and I heard  
12 about that and it becomes problematic because we  
13 don't have any foundation for that. So  
14 nonetheless feel free to say whatever you need  
15 to say and I will do what I need to do in  
16 regards to giving it weight. So go ahead.

17 MR. MUNOZ: My name is Louis Munoz I am the  
18 brother of the victim and I am a victim myself  
19 too. Louis, L-O-U-I-S, Munoz, M-U-N-O-Z. On  
20 behalf of the Munoz family we would like to ask  
21 the parole board that the inmate Alfonso  
22 Carranza complete his sentence in full. The  
23 pain and damage he caused the family Munoz, he  
24 literally killed my brother (indiscernible). He  
25 attempted to kill my two other brothers Raoul  
26 Munoz and Pedro Munoz. We don't think that he  
27 is ready for society or he has been

1 rehabilitated to be in society either in Mexico  
2 or in the US. We think that he is a threat to  
3 society. He is not ready to be a productive man  
4 in society. When people are in jail they  
5 always want to get out and they will say  
6 whatever. A person who is used to doing crime  
7 all of his life (indiscernible) what is the  
8 chances he will not commit crime again. What  
9 are the chances he will not kill another human  
10 being again. When they do it once they can do  
11 it again. And the other (indiscernible) he not  
12 only killed my brother he destroyed part of my  
13 family. He destroyed part of the Munoz family.  
14 Since my brother (indiscernible) died we never  
15 been the same. After the murder of my brother I  
16 was only 15 years old when he was murdered. I  
17 was in deep depression for a long time because  
18 my brother was my best friend. We grew up  
19 together. That night when he left that Friday  
20 night we were supposed to go to Knotts Berry  
21 Farm the next day, I never seen my brother  
22 again. My brother died. It has been a long  
23 time, it might seem like a long time but it  
24 takes sometimes longer for a person to  
25 rehabilitate and get back to society. Like I  
26 mentioned earlier he did not only take my  
27 brothers life but he did it with no remorse

1 whatsoever. When we were in trial pro bono  
2 every time we go into the courthouse he will  
3 come out and he will laugh at us. I was there,  
4 I remember. I don't think he stopped and  
5 thought (sic) he was taking a young kid's life.  
6 My brother was only 18 when he died. He was  
7 only 18 years old and I would like the parole  
8 board to keep that in mind my brother would have  
9 been 38 years old right now. 37 or 38 years old  
10 so we believe he should stay in prison for the  
11 time until he finishes his sentence. To pay to  
12 society for what he had done, to be sure that  
13 when he gets out of this prison he is not a  
14 threat to another person. Not only worrying  
15 about my family, what has happened to my family  
16 was already done. I am worrying about another  
17 human being, being in danger again by a person  
18 that had already killed. And that god knows  
19 what he feels. I know what I feel. The pain of  
20 my brother still feels like it happened  
21 yesterday. Every time I get up in the morning I  
22 think of my brother. And all I am asking for is  
23 for him to pay for the crime that he committed

---

24 to society. Thank you very much.

25 PRESIDING COMMISSIONER LEE: Thank you sir.

26 Ma'am.

27 MS. O'REILLY: Ladies and gentlemen I am



1 Cecelia O'Reilly, I am the sister of Juan, Jose,  
2 Raoul, and Pedro Munoz. My brothers that were  
3 victims of the crime at the hands of Mr. Alfonso  
4 Carranza. Years has passed by that is true but  
5 we have never forgotten his reaction. He tried  
6 to take three lives away in the matter of  
7 seconds. And he did, he killed my younger  
8 brother when he was in the prime of his life.  
9 When he was only 18 years old. Without knowing  
10 him, without having a word with him before that  
11 night. He wounded my older two brothers. He  
12 left my other brothers hurt, one dead and the  
13 other one bleeding. On top of that not only  
14 happy with that he chased my older brother, he  
15 had a bullet in his neck, and he run after him  
16 because he tried to finish his work. He tried  
17 to take his life away. He killed the youngest  
18 and he gived (sic) scars to my family forever.  
19 Because we have never been the same since then.  
20 We always have that empty spot when the family  
21 get together his seat is always empty. My  
22 brother he could have been right now 37 years  
23 old. He could have had a family, he could have  
24 been married but no he is not there anymore.  
25 Mr. Carranza showed to my family the Munoz  
26 family, the pain and suffering of loosing  
27 someone in death. He showed to my family what a



1 person can be what a human being can be capable  
2 to do to hurt others. He really give us a lot  
3 of thought. We don't hate him. We hate his  
4 actions what he did to us. And he did it once,  
5 he did it twice he can do it again. The only  
6 thing I am asking is for him to finish, to do  
7 his time for some reason the state given him 25  
8 years let him finish his time until the last  
9 day. Why because he has to learn his lesson.  
10 He has to learn that before he grab a gun again  
11 he has to think twice. You cannot take peoples  
12 lives away like drinking a soda or changing  
13 shoes. You cant. No one has the right to take  
14 no ones life. And I believe Mr. Carranza has to  
15 learn. Because could you imagine if someone  
16 would have taken one of your kids lives away.  
17 Would you let them go or let them leave before  
18 the time? I don't think so. Anyone in this  
19 room wouldn't do that. You would agree with me  
20 and you would ask the same thing. I am opposed  
21 to his parole. That is why I took my time.  
22 That is why I am here. I just want to make sure  
23 you guys make the right decision. It is not  
24 easy to believe someone with such a history of  
25 violence and crime and let them go outside.  
26 Because if he does it again before the time it  
27 is going to be on your conscious and it is a big

1 responsibility on your shoulders. Before you  
2 make any decision I please ask you to make sure  
3 you are doing the right thing. Because if  
4 happened to my family it could happen to you  
5 too. So please of course I am glad he is doing  
6 changes and I didn't mention it to him but I  
7 remember. 17 years ago when I talked to him. I  
8 was happy that justice was done. They give him  
9 25 years that is justice, let him finish the 25  
10 years (indiscernible) before the time. And I am  
11 glad that he wants to make changes. But  
12 everybody wants to make points when they want to  
13 leave before. My brother is not alive. He  
14 feels the son everyday on his face. My brother  
15 is not here anymore. We don't hate him we just  
16 want him to pay for what he did. And after the  
17 25 years if it is ok if he wants to go on with  
18 his life, I mean everybody has a right to change  
19 but not before the time. I really thank you for  
20 all this but I don't think Mr. Carranza is ready  
21 to reintegrate to society. I don't think he, I  
22 think he needs to really try hard and I want him  
23 to finish to the last day of the sentence.

---

24 PRESIDING COMMISSIONER LEE: Thank you for  
25 your comments. At this time we are going to  
26 recess and deliberate and we will call everyone  
27 back once we have made our decision, thank you

1 very much.

2 R E C E S S

3 ---oOo---

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 DEPUTY COMMISSIONER THOMPSON: We are back  
4 on record.

5 PRESIDING COMMISSIONER LEE: Ms. Delagarza  
6 we are about to begin. Apparently you have been  
7 abandoned Ms. Delagarza.

8 DEPUTY DISTRICT ATTORNEY DELAGARZA: In  
9 what way?

10 PRESIDING COMMISSIONER LEE: Oh I see empty  
11 chairs now.

12 DEPUTY DISTRICT ATTORNEY DELAGARZA: Oh  
13 they are standing right here.

14 PRESIDING COMMISSIONER LEE: Oh ok we are  
15 waiting for the victims next of kin, they are in  
16 the restroom.

17 ATTORNEY SATRIS: We are off the record now  
18 or are we on?

19 DEPUTY COMMISSIONER THOMPSON: If you want  
20 to be you can be.

21 ATTORNEY SATRIS: No I don't want to be.

22 PRESIDING COMMISSIONER LEE: Can we go off  
23 the record Deputy Commissioner?

24 DEPUTY COMMISSIONER THOMPSON: We are back  
25 on the record.

26 PRESIDING COMMISSIONER LEE: All right I

27 ALFONSO CARRANZA E-30803 DECISION PAGE 1 4/19/2006

1 think everybody has returned at this point and  
2 time. Ms. Delagarza is there. The panel has  
3 reviewed all information received from the  
4 public and relied on the following circumstances  
5 in concluding the prisoner is not suitable for  
6 parole and would pose an unreasonable risk to  
7 society or a threat to public safety if released  
8 from prison. Multiple victims were attacked,  
9 injured and one killed during the offense. The  
10 offense was carried out in a dispassionate and  
11 calculated manner. The offense was carried out  
12 in a manner, which demonstrates an exceptional  
13 callous disregard for human suffering. The  
14 motive of the crime was inexplicable or very  
15 trivial in relationship to the offense. The sad  
16 part of my position is that I truly do not know  
17 what occurred out on the street nor does the  
18 Deputy Commissioner. We are only privy to what  
19 is submitted before us. The inmate's version is  
20 totally at odds with the information we have  
21 received in our packets. The information  
22 apparently in the packets seem to indicate at  
23 trial the witnesses did indicate there was an

---

24 ongoing dispute that had apparently on at least  
25 two occasions an attempt to solve this  
26 particular dispute in fact it seems to indicate  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 2 4/19/2006

1 there was a point and time where both sides  
2 shook hands. But that is where we come to or I  
3 must take as the facts in this case. And  
4 apparently the inmate began shooting for no  
5 apparent reason. There is no indication that  
6 the individuals were aggressors. The  
7 information seems to indicate that one  
8 individual was struck in the neck, two other  
9 individuals were shot at, and one died. The  
10 offense itself is of sufficient severity for the  
11 denial. And for that reason the inmate is being  
12 denied. The inmate is also being denied because  
13 he has an escalating pattern of criminal  
14 conduct. It clearly indicates that not only  
15 being a user the inmate went into drug selling  
16 and unfortunately even after the offense  
17 continued on in a lifestyle that he has  
18 indicated himself that was leading him to  
19 destruction. One suspects this is a continued  
20 lifestyle not only in drugs and alcohol but also  
21 in violence. There was information in regards  
22 to activities after this offense prior to his  
23 arrest. The inmate has failed at previous

---

24 grants of probation and cannot be counted upon  
25 to avoid criminality. Sir it is unfortunate  
26 that in both instances where people have lost  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 3 4/19/2006

1 their lives. One which you were acquitted they  
2 were apparently in bars. Which leads to, I mean  
3 which can infer there was alcohol use but also  
4 your admitted usage in regards to cocaine. You  
5 had an opportunity under driving under the  
6 influence in 1980 or excuse me in 1980 as well  
7 as in 1984 to get off both drugs and alcohol for  
8 whatever reasons you were unable to do so. And  
9 the reasons I am bringing that up is because of  
10 your lack of AA and NA participation which I  
11 will get to in just a minute. The inmate has  
12 failed to profit from societies previous  
13 attempts to correct his criminality such  
14 attempts include adult probation as well as your  
15 drug rehab. The prisoner has failed to  
16 sufficiently participate in self-help and  
17 therapy programming. Sir it is amazing to me in  
18 light of the situation you got yourself into  
19 that you have not looked into AA and NA. The  
20 concerns expressed by the victims as well as the  
21 District Attorney are the same concerns of the  
22 panel. If a person chooses to stop taking  
23 alcohol or drugs that is obviously a good  
24 choice. No one is doubting that. But that also  
25 leads to the next step that you can readily  
26 chose to take drugs and alcohol again. One of  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 4 4/19/2006

1 the things about AA and NA is the basic precept  
2 that you need help from other people. That they  
3 would assist you outside. And I am hoping that  
4 you understand that at some point and time and  
5 receive that type of assistance. Now if you  
6 find another plan that you like better that is  
7 fine too. But we believe you need substance  
8 abuse programming. In regards to the inmate's  
9 parole plans I think they are sufficient.  
10 Obviously if you ever receive a date all parole  
11 plans go through what we call legal review.  
12 That means that an investigator will actually go  
13 and determine whether or not your plans are  
14 valid. And that is not because we don't believe  
15 you but we have had individuals lie to us in the  
16 past. So the concerns are unwarranted at this  
17 stage. I believe if you are foolish enough to  
18 lie to us that, that would be found out. But at  
19 this point and time you have a place to stay  
20 both in Mexico and the United States as well as  
21 job offers. However the panel notes opposition  
22 to your finding of suitability both from the  
23 District Attorney's office of Los Angeles County  
24 as well as the victim's next of kin. The panel  
25 makes the following findings. The prisoner  
26 needs therapy, programming and self-help in  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 5 4/19/2006



1 order to face, discuss, understand, and cope  
2 with stress in a non destructive manner as well  
3 as to get further insight into the crime. Until  
4 progress is made the prisoner continues to be  
5 unpredictable and a threat to others.  
6 Nonetheless the prisoner should be commended for  
7 the following.

8 DEPUTY COMMISSIONER THOMPSON: Well he did  
9 remain disciplinary free and he has been  
10 involved in counseling his peers and the Spanish  
11 speaking inmates as well as concerning both  
12 health issues and as well as adjustment issues.  
13 And he was noted and commended for that by the  
14 church group, I believe it is Jubilee Christian  
15 church. And he has a number of letters thanking  
16 him for his help and his cooperation in various  
17 events. I think they all show a willingness to  
18 be socialized and try to have empathy for other  
19 people. Which is to be commended and hopefully  
20 built on as a good foundation for future life or  
21 future contacts. And I think all in all he has  
22 made some educational efforts, he did get an  
23 equivalency degree. And he has taken English as

24 a second language which makes him a good role  
25 model for Spanish speaking inmates who are  
26 trying to interface and interrelate to an

1 English speaking, American English admittedly,  
2 but an English speaking community. And I think  
3 that is all commendable.

4 PRESIDING COMMISSIONER LEE: However these  
5 positive aspects of his behavior do not outweigh  
6 the factors of unsuitability. This is the  
7 inmate initial hearing. The District Attorney  
8 has indicated that five years is the appropriate  
9 denial time. I will indicate in a separate  
10 decision the hearing panel finds that the  
11 prisoner has been convicted of murder as well as  
12 attempted homicide and it is not reasonable to  
13 expect parole would be granted in the next four  
14 years. Sir I will tell you we had discussions  
15 about this particular area. But Mr. Sattris does  
16 indicate the obvious. You were not given the  
17 sentence of life without possibility of parole,  
18 you are attempting at this point and time to  
19 better yourself. I don't believe five years is  
20 appropriate. I think four years is the  
21 appropriate amount to get together the things  
22 that you do need to get together. Including AA,  
23 right now you have no track record at all. Some

---

24 individuals as you know have been going to AA  
25 for 10 or 15 years. So that the concern that  
26 has been expressed by various individuals will  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 7 4/19/2006

1 be alleviated. That you will go back and end up  
2 doing the same things you did before and  
3 ultimately hurting others once again. I cannot  
4 emphasize or over emphasize to you the concern  
5 that the panel has but not even just the panel.  
6 The governor has a very similar concern and I  
7 suggest strongly that you reassess your position  
8 in regards to AA and NA. The reason for the  
9 multiple year denial is that multiple victims  
10 were attacked. It is very obvious that whatever  
11 occurred out there for what ever reasons you had  
12 no intentions of stopping. That you intended to  
13 deal with the three individuals out on the  
14 street. The offense was carried out in a  
15 manner, which demonstrates an exceptional  
16 callous disregard for human suffering. One of  
17 the individuals apparently was wounded and you  
18 continued on afterwards. The motive for the  
19 crime was very inexplicable very trivial in  
20 relation to the offense. In your own statement  
21 you overreacted and based upon what you  
22 indicated you observed. The prisoner apparently  
23 did not learn from his previous contacts with

---

24 the criminal justice system. The prisoner has  
25 not completed necessary programming, which is  
26 essential to his adjustment and need additional  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 8 4/19/2006

1 time to gain such programming. Specifically the  
2 inmate needs to participate in AA as well as NA  
3 or the equivalent. Therefore a longer period of  
4 observation and evaluation of the prisoner is  
5 required before the board should find that the  
6 prisoner is suitable for parole. The panel  
7 recommends the inmate remain disciplinary free,  
8 and if available participate in self-help and  
9 therapy programming. Deputy Commissioner?

10 DEPUTY COMMISSIONER THOMPSON: I wouldn't  
11 add anything to that except to wish you well.  
12 And that is it from my side.

13 PRESIDING COMMISSIONER LEE: Good luck sir.

14 INMATE CARRANZA: You do the same.

15 ATTORNEY SATRIS: Is there an automatic  
16 policy that he will see the psychologist four  
17 years down the road or do you need to make a  
18 special request for that.

19 PRESIDING COMMISSIONER LEE: You know what  
20 as you know we kind of bounce back and forth.  
21 But based upon your request I am assuming you  
22 wish for me to readmit an evaluation to the  
23 inmate and I will do that.

24 ATTORNEY SATRIS: Ok thank you.

25 PRESIDING COMMISSIONER LEE: All right at  
26 this time we are in recess.

27 ALFONSO CARRANZA E-30803 DECISION PAGE 9 4/19/2006

--oOo--

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23 PAROLE DENIED FOR FOUR YEARS

AUG 16 2006

24 THIS DECISION WILL BE FINAL ON: \_\_\_\_\_

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT

26 DATE, THE DECISION IS MODIFIED

27 ALFONSO CARRANZA E-30803 DECISION PAGE 10 4/19/2006

CERTIFICATE AND  
DECLARATION OF TRANSCRIBER

I, JENNYFER OSECHECK, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 -90, and which recording was duly recorded at SAN QUENTIN STATE PRISON, SAN QUENTIN, CALIFORNIA, in the matter of the INITIAL PAROLE CONSIDERATION HEARING OF ALFONSO CARRANZA, CDC NO. E-30803, ON APRIL 19, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated May 29, 2006 at Sacramento, California.



JENNYFER OSECHECK  
TRANSCRIBER  
PETERS SHORTHAND REPORTING

---

EXHIBIT B

CALIFORNIA CODE OF REGULATIONS TITLE 15, SECTION 2400-2411, PAGES 73-81



### § 2373. Nonlife 1168 and ISL Prisoners: Parole Consideration Hearing Rights.

(a) Multijurisdiction Prisoners Located in California. At all hearings at which a prisoner is being considered for parole, all multijurisdiction prisoners located in California shall have the rights specified in Sections 2245-2255.

(b) Multijurisdiction Prisoners Located Outside California. At all hearings at which a prisoner is being considered for parole all multijurisdiction prisoners located outside California shall have the rights specified in Section 2367. The hearing shall be a telephone hearing.

(c) Record. The record of any parole consideration hearing shall be a tape recording. Until July 1, 1978, for all multijurisdiction ISL prisoners, the record shall be a written summary of the hearing prepared at the hearing by department staff. After July 1, 1978, the record shall be a tape recording.

#### HISTORY

1. Repealer of former Section 2373 and renumbering of Section 2374 to Section 2373 filed 6-11-79; effective thirtieth day thereafter (Register 79, No. 24). For history of former section, see Register 77, No. 44.

## Article 11. Parole Consideration Criteria and Guidelines for Murders Committed on or After November 8, 1978, and Specified Attempted First Degree Murders Committed on or After January 1, 1987

### § 2400. Scope of Article.

The criteria and guidelines in this article apply to prisoners sentenced to prison for first and second degree murders committed on or after November 8, 1978 and attempted first degree murders where the perpetrator is sentenced for life under the provisions of Penal Code Section 664, effective January 1, 1987. The guidelines in this article are based on the public's expressed intent in amending Penal Code Sections 190 and 664 that a person convicted of first or second degree murder or attempted first degree murder, as specified should be incarcerated for an extended period of time.

The prisoner's minimum eligible parole date is established by statute. The amount of good conduct credit that a prisoner sentenced for first or second degree murder may earn to reduce the minimum eligible parole date is established by statute. (Penal Code Sections 2930-2933.) Life prisoners convicted of attempted first degree murder do not earn these credits; their minimum eligible parole date will be established pursuant to Penal Code Section 3046. The Department of Corrections will determine the minimum eligible parole date. The length of time a prisoner must serve prior to actual release on parole is determined by the board. The amount of postconviction credit a prisoner may earn to reduce the length of time prior to release on parole is determined by the board. This article implements Penal Code Section 3041 and concerns only the board's exercise of discretion in determining whether a prisoner is suitable for parole and, if so, when the prisoner should be released on parole.

The standards for the Department's action in reducing the minimum eligible parole date and the standards for the board's decision whether to reduce the period of confinement are different. The Department's decisions under Penal Code Sections 2930-2933 do not affect the board's decision concerning postconviction credit under these rules.

A prisoner committed for first or second degree murder or attempted first degree murder shall have his or her initial parole consideration hearing as provided in Section 2268. The prisoner will have documentation hearings as provided in Section 2269.1, but no specific amount of postconviction credit will be granted until the board has established a period of confinement.

As used in this article, "life prisoner(s)" refers only to persons committed to prison for first or second degree murders committed on or after November 8, 1978, or to persons committed to prison for life for attempted murders committed on or after January 1, 1987.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 190, 664, 2930-2933, 3040, 3041, 3046 and 5076.1, Penal Code.

#### HISTORY

1. New Article 11 (Sections 2400-2411) filed 9-8-81; effective thirtieth day thereafter (Register 81, No. 37).
2. Amendment filed 6-14-84; effective thirtieth day thereafter (Register 84, No. 24).
3. Amendment filed 11-13-85; effective thirtieth day thereafter (Register 85, No. 46).
4. Amendment filed 1-20-88; operative 2-19-88 (Register 88, No. 5).

### § 2401. General.

A life prisoner shall be considered for parole for the first time at the initial parole consideration hearing scheduled as provided in Section 2268. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2402(c). A parole date shall be set if the prisoner is found suitable for parole under Section 2402(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.

In setting the parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining the suitability for parole and the setting of parole dates, considering the number of victims of the crime for which the prisoner was sentenced and any other circumstances in mitigation or aggravation.

The terms in this article are guidelines only. The suggested terms serve as the starting point for the board's consideration of each case on an individual basis. The board may establish a term above or below the guidelines when warranted and reasons are stated on the record. A prisoner shall not be released before the minimum eligible parole date.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code.

#### HISTORY

1. Amendment filed 8-12-82; effective thirtieth day thereafter (Register 82, No. 33).
2. Amendment filed 11-13-85; effective thirtieth day thereafter (Register 85, No. 46).

### § 2402. Determination of Suitability.

(a) General. The panel shall first determine whether the life prisoner is suitable for release on parole. Regardless of the length of time served, a life prisoner shall be found unsuitable for and denied parole if in the judgment of the panel the prisoner will pose an unreasonable risk of danger to society if released from prison.

(b) Information Considered. All relevant, reliable information available to the panel shall be considered in determining suitability for parole. Such information shall include the circumstances of the prisoner's social history; past and present mental state; past criminal history, including involvement in other criminal misconduct which is reliably documented; the base and other commitment offenses, including behavior before, dur-



and after the crime; past and present attitude toward the crime; conditions of treatment or control, including the use of special conditions in which the prisoner may safely be released to the community; and other information which bears on the prisoner's suitability for release. Circumstances which taken alone may not firmly establish unsuitability for parole may contribute to a pattern which results in a finding of unsuitability.

(3) **Circumstances Tending to Show Unsuitability.** The following circumstances each tend to indicate unsuitability for release. These circumstances are set forth as general guidelines; the importance attached to any instance or combination of circumstances in a particular case is left to the judgment of the panel. Circumstances tending to indicate unsuitability include:

(a) **Commitment Offense.** The prisoner committed the offense in an especially heinous, atrocious or cruel manner. The factors to be considered include:

(i) Multiple victims were attacked, injured or killed in the same or separate incidents.

(ii) The offense was carried out in a dispassionate and calculated manner such as an execution-style murder.

(iii) The victim was abused, defiled or mutilated during or after the offense.

(iv) The offense was carried out in a manner which demonstrates an especially callous disregard for human suffering.

The motive for the crime is inexplicable or very trivial in relation to the offense.

(v) **Previous Record of Violence.** The prisoner on previous occasions did or attempted to inflict serious injury on a victim, particularly if the prisoner demonstrated serious assaultive behavior at an early age.

(vi) **Unstable Social History.** The prisoner has a history of unstable or unusual relationships with others.

(vii) **Sadistic Sexual Offenses.** The prisoner has previously sexually assaulted another in a manner calculated to inflict unusual pain or fear upon the victim.

(viii) **Psychological Factors.** The prisoner has a lengthy history of severe problems related to the offense.

(ix) **Institutional Behavior.** The prisoner has engaged in serious misconduct in prison or jail.

(4) **Circumstances Tending to Show Suitability.** The following circumstances each tend to show that the prisoner is suitable for release. These circumstances are set forth as general guidelines; the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the panel. Circumstances tending to indicate suitability include:

(a) **Juvenile Record.** The prisoner does not have a record of assaults as a juvenile or committing crimes with a potential of personal victims.

(b) **Stable Social History.** The prisoner has experienced reasonably stable relationships with others.

(c) **Signs of Remorse.** The prisoner performed acts which tend to indicate the presence of remorse, such as attempting to repair the damage, seeking help for or relieving suffering of the victim, or indicating that he understands the nature and magnitude of the offense.

(d) **Motivation for Crime.** The prisoner committed his crime as the result of significant stress in his life, especially if the stress has built over a long period of time.

(e) **Lack of Criminal History.** The prisoner lacks any significant history of violent crime.

(f) **Age.** The prisoner's present age reduces the probability of recidivism.

(g) **Understanding and Plans for Future.** The prisoner has made realistic plans for release or has developed marketable skills that can be put to use upon release.

(h) **Institutional Behavior.** Institutional activities indicate an enhanced ability to function within the law upon release.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Section 3041, Penal Code.

#### § 2403. Base Term.

(a) **General.** The panel shall set a base term for each life prisoner who is found suitable for parole. The base term shall be established solely on the gravity of the base crime, taking into account all of the circumstances of that crime. If the prisoner has been received in prison for more than one murder committed on or after November 8, 1978 the base crime is the most serious of the murders considering the facts and circumstances of the crime. If the prisoner has been sentenced to prison for murders committed before November 8, 1978 and for murders committed on or after November 8, 1978 the base offense shall be the most serious of the murders committed on or after November 8, 1978.

The base term shall be established by utilizing the appropriate matrix of base terms provided in this section. The panel shall determine the category most closely related to the circumstances of the crime. The panel shall impose the middle base term reflected in the matrix unless the panel finds circumstances in aggravation or mitigation.

Provided, however in cases of attempted murder, after determining the category as specified, the panel shall impose one-half the middle base term, unless the panel finds circumstances in aggravation or mitigation.

If the panel finds circumstances in aggravation or in mitigation as provided in Sections 2404 or 2405, the panel may impose the upper or lower base term provided in the matrix by stating the specific reason for imposing such a term. A base term other than the upper, middle or lower base term provided in the matrix may be imposed by the panel if justified by the particular facts of the individual case and if the facts supporting the term imposed are stated.

## CIRCUMSTANCES

FIRST DEGREE MURDER Penal Code § 189 (a) and does not include post conviction credit as provided in § 2290)	CIRCUMSTANCES			
	A. Indirect Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force, e.g., shock producing heart attack; a crime partner actually did the killing.	B. Direct or Victim Contribution Death was almost immediate or resulted at least partially from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victim acting in defense of self or property.	C. Severe Trauma Death resulted from severe trauma inflicted with deadly intensity, e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.	D. Torture Victim was subjected to the prolonged infliction of physical pain through the use of brutally force prior to act resulting in death.
I. Participating Victim Victim was accomplice or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred, e.g., crime partner, drug dealer, etc.	25-26-27	26-27-28	27-28-29	28-29-30
II. Prior Relationship Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If victim had a personal relationship but prisoner hired and/or paid a person to commit the offense, see Category IV.	26-27-28	27-28-29	28-29-30	29-30-31
III. No Prior Relationship Victim had little or no personal relationship with prisoner; or motivation for act resulting in death was related to the accomplishment of another crime, e.g., death of victim during robbery, rape, or other felony.	27-28-29	28-29-30	29-30-31	30-31-32
IV. Threat to Public Order or Murder for Hire The act resulting in the victim's death constituted a threat to the public order include the murder of a police officer, prison guard, public official, fellow prisoner or prisoner, any killing within an institution, or any killing where the prisoner hired and/or paid another person to commit the offense.	28-29-30	29-30-31	30-31-32	31-32-33

## SUGGESTED BASE TERM

(c) Matrix of Base Terms for Second Degree Murder on or after November 8, 1978.

## CIRCUMSTANCES

SECOND DEGREE MURDER Penal Code § 189 (b) and does not include post conviction credit as provided in § 2290)	CIRCUMSTANCES		
	A. Indirect Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force, e.g., shock producing heart attack; a crime partner actually did the killing.	B. Direct or Victim Contribution Death was almost immediate or resulted at least partially from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victim acting in defense of self or property.	C. Severe Trauma Death resulted from severe trauma inflicted with deadly intensity, e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.
I. Participating Victim Victim was accomplice or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred, e.g., crime partner, drug dealer, etc.	15-16-17	16-17-18	17-18-19
II. Prior Relationship Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If victim had a personal relationship but prisoner hired and/or paid a person to commit the offense, see Category IV.	16-17-18	17-18-19	18-19-20
III. No Prior Relationship Victim had little or no personal relationship with prisoner; or motivation for act resulting in death was related to the accomplishment of another crime, e.g., death of victim during robbery, rape, or other felony.	17-18-19	18-19-20	19-20-21

## SUGGESTED BASE TERM

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code.

## HISTORY

- Editorial correction filed 10-8-81; effective thirtieth day thereafter (Register 81, No. 41).
- Amendment of subsection (a) filed 1-20-88; operative 2-19-88 (Register 88, No. 5).

- The crime involved some factors described in the appropriate matrix in a category higher on either axis than the categories chosen as most closely related to the crime;
- The victim was particularly vulnerable;
- The prisoner had a special relationship of confidence and trust with the victim, such as that of employee-employer;
- The murder was committed to preclude testimony of potential or actual witnesses during a trial or criminal investigation;
- The victim was intentionally killed because of his race, color, religion, nationality or country or origin;
- During the commission of the crime the prisoner had a clear opportunity to cease but instead continued;

## § 2404. Circumstances in Aggravation of the Base Term.

(a) General. The panel may impose the upper base term or another term longer than the middle base term upon a finding of aggravating circumstances. Circumstances in aggravation of the base term include:

Case 3:08-cv-02511-PJR Document 84 Filed 09/03/2008 Page 58 of 84

) The manner in which the crime was committed created a potential serious injury to persons other than the victim of the crime;

) The murder was wanton and apparently senseless in that it was committed after another crime occurred and served no purpose in committing that crime;

) The corpse was abused, mutilated or defiled;

) The prisoner went to great lengths to hide the body or to avoid detection;

) The murder was committed to prevent discovery of another crime;

) The murder was committed by a destructive device or explosives;

) There were multiple victims for which the term is not being ended under Section 2407;

) The prisoner intentionally killed the victim by the administration of poison;

) The prisoner intentionally killed the victim by lying in wait;

) The prisoner occupied a position of leadership or dominance over participants in the commission of the crime, or the prisoner induced others to participate in the commission of the crime;

) The prisoner has a history of criminal behavior for which the term is being enhanced under Section 2407;

) The prisoner has engaged in other reliably documented criminal acts which was an integral part of the crime for which the prisoner is presently committed to prison;

) The prisoner was on probation or parole or was in custody or had been removed from custody at the time the crime was committed;

) Any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.

Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and Penal Code.

#### 15. Circumstances in Mitigation of the Base Term.

General. The panel shall impose the lower base term or another shorter than the middle base term upon a finding of mitigating circumstances. Circumstances in mitigation of the base term include:

The crime involved some factors described in the appropriate major category lower on either axis than the categories chosen as most closely related to the crime;

The prisoner participated in the crime under partially excusable circumstances which do not amount to a legal defense;

The prisoner had no apparent predisposition to commit the crime as induced by others to participate in its commission;

The prisoner tried to help the victim or sought aid after the commission of the crime or tried to dissuade a crime partner from committing offenses;

The prisoner was a passive participant or played a minor role in the commission of the crime;

The crime was committed during or due to an unusual situation unlikely to reoccur;

The crime was committed during a brief period of extreme mental or emotional trauma;

The prisoner has a minimal or no history of criminal behavior;

Any specific factors in mitigation, including those listed in the Sentencing Rules for Superior Courts.

Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and Penal Code.

#### 6. Adjustment for Weapons, Great Loss and Prior Prison Terms.

General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose enhancements under Penal Code Sections 12022, 12022.5, 12022.6 and 667.5 consecutive to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion whether to impose or strike the punishment upon a finding that the prisoner used a deadly or dangerous weapon, was armed with a firearm, used a firearm, caused great loss or served prior prison terms, the board shall consider

the court's action in determining the adjustment under this section.

(b) Punishment Imposed by the Court. If the court imposed the consecutive punishment for the enhancement, the board shall not add an additional adjustment for using a deadly or dangerous weapon, being armed with a firearm, using a firearm, causing great loss in committing the murder, or having served a prior prison term.

(c) Punishment Stricken by Court. If the court struck the punishment upon a finding of circumstances in mitigation, the board shall consider any circumstances in mitigation. The board may add an adjustment for using a deadly or dangerous weapon, being armed with a firearm, using a firearm, causing great loss or having served a prior prison term. The suggested adjustment is one-half the punishment that was stricken by the court.

(d) No Allegation or Finding. If the board finds that the prisoner used a deadly or dangerous weapon, was armed with a firearm, used a firearm, caused great loss or served a prior prison term although that fact was not found to be true at the time of the prisoner's conviction, the board may add an adjustment based on that finding. The adjustment should be less than the adjustment suggested in subdivision (c) of this section.

In adding adjustments for prior prison terms under this subsection, the panel should consider the length of time between the prisoner's release from custody and commission of a new offense.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 3040, 3041, 12022, 12022.5, 12022.6 and 12022.7, Penal Code.

#### § 2407. Adjustments for Other Offenses.

(a) General. Effective January 1, 1979 Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.

##### (b) Multiple Convictions.

(1) General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.

(2) Consecutive Life Sentences Imposed by the Court. If the court imposed consecutive life sentences the board shall determine the base crime and base term as provided in Section 2403(a). The board shall add adjustments for the remaining life crimes. The adjustment for each remaining life crime shall be a period of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the crime. In no case will the parole date for consecutive sentences be earlier than the parole date for concurrent sentences.

(3) Concurrent Life Sentences Imposed by the Court. If the court imposed concurrent life sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served on the nonbase life crime prior to reception on the base offense; or

(B) The following adjustment:

1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.

2. Second degree murder: 8 years for a second degree murder committed on or after November 8, 1978.

3. One-half the period of parole ineligibility for other life crimes.

(4) Consecutive Nonlife Sentences Imposed by the Court. If the court imposed consecutive nonlife sentences the Board shall not add additional adjustment for the nonlife crime.

(5) Concurrent Nonlife Sentences Imposed by the Court. If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served for the nonlife crime prior to reception on the life offense; or

(B) One-half the determinate term imposed by the court; or



#### HISTORY

1. Amendment of subsection (b)(3)(B) filed 11-13-85; effective thirtieth day thereafter (Register 85, No. 46).

### § 2408. Circumstances in Aggravation of the Adjustment for Other Crimes.

Circumstances which may justify imposition of an adjustment for another crime higher than that suggested in Section 2407 include:

(a) **Pattern of Violence.** A victim was seriously injured or killed in the course of the other crime, or there was a substantial likelihood of serious injury or death resulting from the acts of the prisoner.

(b) **Numerous Crimes.** The other crime was one of a series of crimes which occurred during a single period of time, showing a pattern of similar conduct resulting in convictions, but not resulting in adjustments under Section 2407.

(c) **Crimes of Increasing Seriousness.** The prisoner has committed multiple crimes which indicate a significant pattern of increasingly serious criminal conduct.

(d) **Independent Criminal Activity.** The other crime and its objective were independent of the base crime or the other crime was committed at a different time and place, indicating a significant pattern of criminal behavior rather than a single period of aberrant behavior.

(e) **Status.** The prisoner was on probation or parole or was in custody or had escaped from custody when the crime was committed.

(f) **Vulnerability.** The victim was particularly vulnerable.

(g) **Other.** The other crime included any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1170, 3040 and 3041, Penal Code; Sentencing Rules for the Superior Courts.

### § 2409. Circumstances in Mitigation of the Adjustment for Other Crimes.

Circumstances which may justify imposition of an adjustment for another crime lower than that suggested in Section 2407, or which may justify no adjustment, include:

(a) **Successful Completion of Probation or Parole.** The prisoner's performance on probation or parole for the other crime was good, and the prisoner was free of criminal convictions for a reasonable period of time following completion of probation or parole.

(b) **Insignificant Prior Record.** The other crime indicates an insignificant pattern of prior criminal behavior. For example, the other crime is unrelated to the principal offense in time, in the kind of criminal conduct involved, or in the apparent motivation or cause of the criminal conduct.

(c) **Probation.** The prisoner was granted probation after conviction of the other crime.

(d) **Other.** The other crime included any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1170, 3040 and 3041, Penal Code; Sentencing Rules for the Superior Courts.

### § 2410. Postconviction Credit.

(a) **General.** Life prisoners may earn postconviction credit for each year spent in state prison from the date the life term starts. Prior to the initial parole consideration hearing life prisoners shall have documentation hearings as provided in Section 2269.1. At the documentation hearings, the board shall document the prisoner's performance, participation, behavior and other conduct as specified in subsection (c) of this section. Credit shall not be granted or denied at these hearings. The documentation shall be used by the panel which establishes a parole date to determine how much, if any, credit should be granted for the years served prior to the establishment of the parole date. Once a parole date is established, postconviction credit for time served since the last hearing shall be considered at the progress hearings scheduled as provided in Section 2269.

The board shall consider each case individually in determining the amount of credit. The board provides guidelines for granting credit but a panel may grant more or less credit as appropriate.

(b) **Amount of Credit.** Postconviction credit shall be granted to life prisoners in a manner which allows similar amounts of time to prisoners in similar circumstances. The suggested amount of postconviction credit is zero to 4 months for each year served since the date the life term started excluding any time during which service of the life term is tolled.

The board may grant more or less than 4 months annual postconviction credit when the prisoner's performance, participation or behavior warrants such adjustment of credit. Less than 4 months credit may be granted if the prisoner fails to meet the general expectations set forth in Section 2410(c). More than 4 months credit may be granted if the prisoner demonstrates exceptional performance in a work assignment, exceptional participation in self-help or rehabilitative programs, or other exemplary conduct. If the panel grants more than 4 months of postconviction credit for any year, the case shall be reviewed as provided in Sections 2041-2043.

Provided, however, postconviction credits which would advance the parole release date to less than 180 days from the date of the hearing shall not be granted unless or until the parole review authority of the Governor is exercised pursuant to Penal Code section 3041.1.

(c) **Criteria.** In determining the amount of postconviction credit to be granted, the panel shall consider the following:

(1) **Performance in Institutional Work Assignments.** All life prisoners are presumed to work and to perform satisfactorily in work assignments (see CDC Rules 3040 and 3041). Lack of a work assignment shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of work assignments at the institution, the prisoner's custody status, and any other impediments to the prisoner's receiving work assignment.

(2) **Participation in Self-Help and Rehabilitative Programs.** All life prisoners are presumed to participate in programs for self development (refer to CDC Rules 3040 and 3041). Lack of program participation shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of programs at the institution, the prisoner's custody status, and any other impediments to the prisoner's participation in programs.

(3) **Behavior in the Institutional Setting.** All life prisoners are presumed to behave in a disciplinary-free manner, in accordance with state law and departmental regulations (refer to CDC Rules 3000-3021). However, a minor disciplinary offense shall not necessarily prevent the granting of postconviction credit.

(d) **Credit Not Granted.** No annual postconviction credit shall be granted in the case of any prisoner who commits serious (as defined in 15 CCR Section 3315) or numerous (more than three) infractions of departmental regulations, violates any state law, or engages in other conduct which could result in rescission of a parole date (see Section 2451) unless the panel finds evidence in mitigation and supports such finding with a statement of its reasoning.

Consistent unsatisfactory performance in work assignments, consistent failure to engage in program participation, or consistent overall negative behavior demonstrated by numerous minor disciplinary reports may, individually or cumulatively, justify the withholding of annual postconviction credit which otherwise could have been granted.

(e) **Change in Parole Date.** Once postconviction credit is granted for particular year of imprisonment, the credit shall be applied to any new term established after rescission or reconviction after a reversal.

NOTE: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code. *In re Stanley*, 54 Cal.App.3d 1030 (1976).

#### HISTORY

1. Amendment of subsection (d) and NOTE filed 8-15-91; operative 9-16-91 (Register 91, No. 51).
2. Amendment of subsections (b) and (c)(2) filed 12-20-93; operative 1-19-94 (Register 93, No. 52).

### § 2411. Fixing a Parole Date.

(a) **Total Period of Confinement.** The terms established for the base crime and any adjustments shall be added together resulting in a total pc-

confinement. The total period of confinement shall be reduced by the conviction credit granted under Section 2410. This results in the period of confinement.

period of Prison Confinement. Any preprison credit shall be deducted from the total period of confinement as provided in Sections 345. This results in the total period of prison confinement. The total period of prison confinement shall be reduced by any postconviction credit granted under Section 2410. This results in the adjusted period of confinement.

Parole Date. The adjusted period of prison confinement and any large shall be added to the date the life term starts. This results in the date. For purposes of determining the parole date, the life terms are:

Consecutive Life Sentences. The date the prisoner was received in Penal Code Section 2900 or 1203.2a for the earliest life sentence if the prisoner is sentenced to prison with consecutive life sentences.

Concurrent Life Sentences. The date the prisoner was received in Penal Code Section 2900 or 1203.2a for the earliest life sentence used in setting the parole date if the prisoner is sentenced to prison with concurrent life sentences.

Consecutive Nonlife Sentences for Crimes or Enhancements. The prisoner completed serving the nonlife sentence or the sentence of consecutive enhancement under Penal Code Section 669 if the prisoner is sentenced to prison with nonlife sentences which are consecutive.

Concurrent Nonlife Sentences. The date the prisoner was received in Penal Code Section 2900 or 1203.2a, if the prisoner is sentenced to prison with nonlife sentences which are concurrent.

If the panel added any adjustments for the nonlife sentence and the prisoner was received for those crimes prior to the date received for the life crime, the time served for those nonlife crimes the date the life term starts shall be deducted from the adjustment for the nonlife crime.

Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 2900, Penal Code.

#### HISTORY

Amendment of subsection (b) filed 11-13-85; effective thirtieth day thereafter 85, No. 46)

## Article 12. Parole Consideration Criteria and Guidelines for Habitual Offenders Sentenced to Life Terms Under Penal Code Section 667.7

### Scope of Article.

Criteria and guidelines in this article shall apply to prisoners sentenced to a term of 20 years to life as habitual offenders under Penal Code 667.7 for crimes committed on or after January 1, 1982. The provisions in this article shall be construed to be based on the public's excitement in adding Section 667.7 to the Penal Code that a person convicted of a felony in which the person inflicts great bodily injury or personally uses force likely to produce great bodily injury, and who has served two or more prior prison terms for specified crimes should be sentenced for an extended period of time.

General statement in Section 2400 regarding the differences between the minimum eligible parole date and the parole release date shall be applied with as if incorporated herein.

A prisoner committed as a habitual offender shall have his initial parole consideration hearing in the thirteenth month prior to the minimum parole date. The prisoner shall have documentation hearings as provided in Section 2269.1, but no specific amount of postconviction credit shall be granted until the board has established a period of confinement.

Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 33, 3040 and 3041, Penal Code.

1. New Article 12 (Sections 2420-2429.1) filed 6-14-84; effective thirtieth day thereafter (Register 84, No. 24).

### § 2421. General.

A habitual offender shall be considered for parole for the first time at the initial parole consideration hearing. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2422(c). A parole date shall be set if the prisoner is found suitable for parole under Section 2422(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.

In setting the parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining suitability for parole and the setting of parole dates, the circumstances of the crimes for which the prisoner was sentenced, and any circumstances in aggravation or mitigation.

In setting the base period of confinement, the panel shall consider the circumstances of the current and prior offenses resulting in the conviction as a habitual offender, including the number of prior prison terms for specified crimes and the extent of injury to the victim of the current offense. The panel may then make adjustments to the base period of confinement for other factors.

The circumstances tending to show suitability and unsuitability, and the circumstances in aggravation and mitigation contained in this article shall be construed as guidelines only. The panel may make findings outside the guidelines when warranted in the individual case and reasons are stated on the record.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 3040 and 3041, Penal Code.

### § 2422. Determination of Suitability.

(a) General. The panel shall first determine whether the prisoner is suitable for release on parole. Regardless of the length of time served, a prisoner shall be found unsuitable for and denied parole if in the judgment of the panel the prisoner will pose an unreasonable risk of danger to society if released from prison.

(b) Information Considered. At all parole consideration hearings for habitual offenders the panel shall consider the information described in Section 2281(b).

(c) Circumstances Tending to Show Unsuitability. The panel shall consider those circumstances listed in Section 2281(c) which the panel finds are appropriate to the case of a habitual offender. The panel may make other findings when warranted by the circumstances of an individual case and reasons are stated in the record.

(d) Circumstances Tending to Show Suitability. The panel shall consider those circumstances listed in Section 2281(d) which the panel finds are appropriate to the case of a habitual offender. The panel may make other findings when warranted by the circumstances of an individual case and reasons are stated in the record.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7 and 3041, Penal Code.

### § 2423. Base Term.

(a) General. The panel shall set a base term for each habitual offender who is found suitable for parole. The base term shall be established based on the circumstances of the series of prior and current offenses which resulted in conviction as a habitual offender, considered as a whole.

The base term shall be established by utilizing the appropriate matrix of base terms provided in this section. The panel shall determine the category most closely related to the circumstances of the most serious of the series of prior and current offenses which resulted in commitment as a habitual offender. The panel shall impose the middle base term reflected in the matrix unless the panel finds circumstances in aggravation or mitigation.

If the panel finds circumstances in aggravation or in mitigation as provided in Sections 2424 or 2425, the panel may impose the upper or lower base term provided in the matrix by stating the specific reason for imposing such a term. A base term other than the upper, middle, or lower base

# CIRCUMSTANCES

## HABITUAL OFFENDERS

Penal Code § 667.7 (in years and does not include postconviction credit as provided for in § 2410)

A. Crime included a single victim who did not require extensive medical treatment or prisoner was a passive participant or played a minor role in the crime.

B. Crime involved multiple victims or there were multiple injuries inflicted on the same or different victims.

C. Victim was tortured or suffered loss of bodily member or organ, or duration of offense was lengthy and prisoner had an opportunity to cease but instead continued.

D. Crime involved intricate planning or there exists facts which indicate the crime was committed in a manner which demonstrates an exceptionally callous disregard for human suffering.

### I.

Contributing Victim  
While not an accomplice, victim was involved in criminal activity which contributed to the motivation for the crime, i.e., drug dealer, sex offender, etc.

20-22-24

21-23-25

22-24-26

23-25-27

### II.

Prior relationship  
Victim was involved in a prior relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the crime.

21-23-25

22-24-26

23-25-27

24-26-28

### III.

Vulnerable victim  
Victim was particularly vulnerable due to age or physical or mental condition.

22-24-26

23-25-27

24-26-28

25-27-29

### IV.

Injury to victim  
Victim suffered fatal injury, required extensive medical treatment, or was permanently disabled as result of the crime.

23-25-27

24-26-28

25-27-29

26-28-30

## SUGGESTED BASE TERMS

NOTE: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 667.7 and 3041, Penal Code.

### HISTORY

1. Amendment of section and NOTE filed 3-15-93; operative 4-14-93 (Register 93, No. 12).
2. Editorial correction adding subsection (b) and matrix (Register 93, No. 17).

### § 2424. Circumstances in Aggravation of the Base Term.

Circumstances in aggravation of the base term include but are not limited to:

#### (a) Criminal History.

(1) The current offense or offenses and the offenses underlying the prior prison terms are violent offenses as defined in Penal Code Section 667.5(c).

(2) The current offense or offenses and the offenses underlying the prior prison terms were committed within a relatively short time after release on parole.

(3) The prisoner has been convicted of other offenses during the periods between the commission of the current offense and the offenses underlying the prior prison terms.

(4) The prisoner has served more than two prior prison terms for offenses listed in Penal Code Section 667.7.

#### (b) Circumstances of Offenses.

(1) The current offense or offenses resulted in greater injury to one or more victims than is required for a finding under Penal Code Section 12022.7.

(2) The current offense or offenses or the offenses underlying the prior prison terms resulted in death to one or more victims.

(3) The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate the prisoner preys on victims who are particularly vulnerable, or who occupy a position of trust in relation to the prisoner.



The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate a pattern of the commission of similar violent crimes; i.e., conviction for three or more sexual offenses or three or more offenses involving use of a firearm.

The Circumstances in Aggravation enumerated in Sections 2283, subdivision (a)(1), and 2404, as appropriate to the case of a habitual offender.

Any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.

Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 1040, 3041, Penal Code.

#### i. Circumstances in Mitigation of Base Term.

Circumstances in mitigation include but are not limited to:

Criminal History.

The current offense or offenses and the offenses underlying the prior prison terms are non-violent offenses not listed in Penal Code Section 7.5(c).

There is a relatively long period of crime-free conduct, including successful completion of parole, between commission of the offenses resulting in commitment as a habitual offender.

The prisoner has no other convictions for violent crimes as defined in Penal Code Section 667.5(c) other than those resulting in commitment as a habitual offender.

Circumstances of Offenses.

The great bodily injury to the victim in the current offense was no greater than that required for a finding under Penal Code Section 2406, and the prisoner did not personally inflict injury on any other person as a result of any offense of which he has previously been convicted.

The current offense or offenses did not involve use of a firearm, and the offenses underlying the prior prison terms did not involve use of a firearm, or arming or use of a deadly or dangerous weapon.

The Circumstances in Mitigation enumerated in Sections 2284, subdivision (a)(1), and 2405, as appropriate to the case of a habitual offender.

Any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.

Authority cited: 5076.2, Penal Code. Reference: Sections 667.7, 3040 and 3041, Penal Code.

#### j. Adjustment for Weapons, Great Loss, Great Bodily Injury and Prior Prison Terms.

The panel shall consider the addition of adjustments for weapons, great loss, and prior prison terms as provided in Section 2406.

The panel shall consider the addition of an adjustment for great bodily injury using the guidelines as provided in Section 2406 for the addition of adjustments for weapons, great loss, and prior prison terms.

The panel shall not add adjustments for prior prison terms or find great bodily injury which resulted in the commitment as a habitual offender.

Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.5, 1040, 3041, 12022, 12022.5, 12022.6 and 12022.7, Penal Code.

#### k. Adjustments for Other Offenses.

General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.

Multiple Convictions.

General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.

Consecutive Life Sentences Imposed by the Court. If the court imposes consecutive life sentences the board shall determine the base crime sentence term. The board shall add adjustments for the remaining life sentences. The adjustment for each remaining life crime shall be a period

of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the crime. In no case will the parole date for consecutive sentences be earlier than the parole date for concurrent sentences.

(3) Concurrent Life Sentences Imposed by the Court. If the court imposed concurrent life sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served on the nonbase life crime prior to reception on the base offense; or

(B) The following adjustment:

1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.

2. Second degree murder: 8 years for a second degree murder committed on or after November 8, 1978.

3. One-half the period of parole ineligibility for other life crimes.

(4) Consecutive Nonlife Sentences Imposed by the Court. If the court imposed consecutive nonlife sentences the board shall not add additional adjustments for the nonlife crimes.

(5) Concurrent Nonlife Sentences Imposed by the Court. If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served for the nonlife crime prior to reception on the life offense; or

(B) One-half the determinate term imposed by the court; or

(C) One-half the term that would be established under Section 2271 for crimes which carry a sentence of a year and a day.

Note: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 669, 1170, 3040 and 3041, Penal Code.

#### § 2428. Circumstances in Aggravation and Mitigation of the Adjustment for Other Crimes.

(a) Circumstances in Aggravation. Circumstances which may justify imposition of an adjustment for another crime higher than that suggested in Section 2427 include:

(1) Pattern of Violence. A victim was seriously injured or killed in the course of the other crime, or there was a substantial likelihood of serious injury or death resulting from the acts of the prisoner.

(2) Numerous Crimes. The other crime was one of a series of crimes which occurred during a single period of time, showing a pattern of similar conduct resulting in convictions but not resulting in adjustments under Section 2427.

(3) The prisoner has committed multiple crimes which indicate a significant pattern of increasingly serious criminal conduct.

(4) Independent Criminal Activity. The other crime and its objective were independent of the base crime or the other crime was committed at a different time and place.

(5) Status. The prisoner was on probation or parole or had escaped from custody when the other crime was committed.

(6) Vulnerability. The victim was particularly vulnerable.

(7) Other. The other crime included any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.

(b) Circumstances in Mitigation. Circumstances which may justify imposition of an adjustment for another crime lower than that suggested in Section 2427, or which may justify no adjustment, include:

(1) Successful Completion of Probation or Parole. The prisoner's performance on probation or parole for the other crime was good, and the prisoner was free of criminal convictions for a reasonable period of time following completion of probation or parole.

(2) Probation. The prisoner was granted probation after conviction of the other crime.

(3) Other. The other crime included any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.

§ 2429. Postconviction Credit. The application of postconviction credit shall be considered as provided in Section 2410.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 3040 and 3041, Penal Code; *In re Stanley*, 54 Cal.App.3d 1030 (1976).

§ 2429.1. Fixing a Parole Date.

The parole date shall be determined as provided in Section 2411.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 669, 1203.2a and 2900, Penal Code.

# Article 13. Parole Consideration Criteria and Guidelines for Sex Offenders Sentenced to Life Terms Under Penal Code Section 667.51

## § 2430. Scope of Article.

The criteria and guidelines in this article shall apply to prisoners sentenced to a term of 15 years to life under Penal Code Section 667.51. The guidelines in this article shall be construed as based on the public's expressed intent in adding Section 667.51 to the Penal Code that a person convicted of lewd or lascivious acts committed against a child under the age of 14, and who has served two or more prior prison terms for specified sex crimes should be incarcerated for an extended period of time.

The general statement in Section 2400 regarding the differences between the minimum eligible parole date and the parole release date shall be construed as if incorporated herein.

A person committed under Penal Code Section 667.51 shall have his initial parole consideration hearing in the thirteenth month prior to the minimum eligible parole date. The prisoner shall have documentation hearings as provided in Section 2269.1, but no specific amount of post-conviction credit shall be granted until the board has established a period of confinement.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 667.7, 2930-2933, 3040 and 3041, Penal Code.

## HISTORY

1. New Article 13 (Sections 2430-2439.1) filed 6-14-84; effective thirtieth day thereafter (Register 84, No. 24).

## § 2431. General.

A sex offender shall be considered for parole for the first time at the initial parole consideration hearing. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2432(c). A parole date shall be set if the prisoner is found suitable for parole under Section 2432(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.

In setting a parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining suitability for parole and the setting of parole dates, the circumstances of the crimes for which the prisoner was sentenced and any circumstances in aggravation or mitigation.

In setting a base period of confinement, the panel shall consider the circumstances of the current and prior offenses resulting in conviction under Penal Code Section 667.51.

The circumstances tending to show suitability and unsuitability, and the circumstances in aggravation and mitigation contained in this article shall be construed as guidelines only. The panel may make findings outside the guidelines when warranted in the individual case and reasons are stated on the record.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 3040 and 3041, Penal Code.

(a) General. The panel shall determine whether the prisoner is suitable for release on parole. Regardless of the length of time served, the prisoner shall be found unsuitable for and denied parole if in the judgment of the panel the prisoner will pose an unreasonable risk of danger to society if released from prison.

(b) Information Considered. At all parole consideration hearings for sex offenders the panel shall consider the information described in Section 2281(b).

(c) Circumstances Tending to Show Unsuitability. The panel shall consider those circumstances listed in Section 2281(c) which the panel finds are appropriate to the case of a sex offender. The panel may make other findings when warranted by the circumstances of an individual case and reasons are stated in the record.

(d) Circumstances Tending to Show Suitability. The panel shall consider those circumstances listed in Section 2281(d) which the panel finds are appropriate to the case of a sex offender. The panel may make other findings when warranted by the circumstances of an individual case and reasons are stated in the record.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 3041, Penal Code.

## § 2433. Base Term.

(a) General. The panel shall set a base term for each sex offender who is found suitable for parole. The base term shall be established based on the circumstances of the series of prior and current offenses which resulted in conviction as a sex offender, considered as a whole. The panel shall set a base term which it finds to be appropriate in an individual case after consideration of the Circumstances in Aggravation listed in Section 2434 and the Circumstances in Mitigation listed in Section 2435, and any other circumstances which appear to be important in the judgment of the panel.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51 and 3041, Penal Code.

## § 2434. Circumstances in Aggravation of the Base Term.

Circumstances in aggravation of the base term include:

### (a) Criminal History.

(1) The current offense or offenses and the offenses underlying the prior prison terms are violent offenses as defined in Penal Code Section 667.5(c).

(2) The current offense or offenses and the offenses underlying the prior prison terms were committed within a relatively short time of each other.

(3) The prisoner has been convicted of offenses, misdemeanors or felonies, involving sexually aberrant behavior other than those resulting in the life sentence under Penal Code Section 667.51.

(4) The prisoner has served more than two prior prison terms for offenses listed in Penal Code Section 667.51.

(5) The current or prior commitments to state prison resulted from multiple convictions for sex and sex-related offenses.

### (b) Circumstances of Offenses.

(1) The current offense or offenses or the offenses underlying the prior prison terms resulted in physical or psychological injury to the victim beyond that occasioned by the sex act.

(2) The current offense or offenses or the offenses underlying the prior prison terms involved arming or use of a firearm or deadly or dangerous weapon.

(3) The current offense or offenses and the offenses underlying the prior prison terms establish a pattern of sexual crimes against children.

(4) The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate the prisoner preys on victims who are particularly vulnerable resulting from factors other than the age or sex of the victim, and/or who occupy a position of trust in relation to the prisoner.



he Circumstances in Aggravation listed in Sections 2283, except  
tion (a)(1), and 2404, as appropriate to the case of a habitual sex  
r.

any other circumstances in aggravation including those listed in  
Sentencing Rules for the Superior Courts.  
Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51,  
and 3041, Penal Code.

#### 5. Circumstances in Mitigation of the Base Term.

circumstances in mitigation of the base term include:

##### Criminal History:

The offenses underlying the prior prison terms were for non-violent  
offenses not listed in Penal Code Section 667.5(c).

The prisoner has no other convictions for sex or sex-related offenses  
other than those resulting in commitment under Penal Code Section  
667.51.

The current and previous commitments resulted from a single sex  
offense committed against a single victim.

##### Circumstances of Offense.

The current offense or offenses and the offenses underlying the  
prison terms resulted in no physical or psychological injury to any  
person beyond that directly resulting from the sex act.

The current offense or offenses and the offenses underlying the  
prison terms did not involve arming or use of a firearm or deadly  
dangerous weapon.

The commission of the offenses resulting in commitment under Penal  
Code Section 667.51 appear to have resulted from a psychological  
condition for which the prisoner has voluntarily and continuously sought  
treatment.

The Circumstances in Mitigation listed in Sections 2284, except  
(1), and 2405, as appropriate to the case of a habitual sex offender.

Any other circumstances in mitigation including those listed in the  
Sentencing Rules for the Superior Courts.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51,  
669, 1170, 3040 and 3041, Penal Code.

#### 2436. Adjustment for Weapons, Great Loss, Great Bodily Injury and Prior Prison Terms.

The panel shall consider the addition of adjustments for weapons,  
great loss, and prior prison terms as provided in Section 2406.

The panel shall consider the addition of an adjustment for great  
bodily injury using the guidelines as provided in Section 2406 for the ad-  
dition of adjustments for weapons, great loss and prior prison terms.

The panel shall not consider adjustments for prior prison terms  
which resulted in the commitment as a sex offender.  
NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.5,  
667.51, 3040, 3041, 12022, 12022.5, 12022.6 and 12022.7, Penal Code.

#### § 2437. Adjustments for Other Offenses.

(a) General. Effective January 1, 1979, Penal Code Section 669 was  
amended to permit the court to impose sentences for other crimes to be  
served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the  
court has discretion to order that the sentences for more than one crime  
be served consecutively, the board shall consider the court's action in de-  
termining the adjustment pursuant to this section.

##### (b) Multiple Convictions.

(1) General. The board shall not add adjustments for convictions for  
which the prisoner has been pardoned or which have been reversed by an  
appellate court.

(2) Consecutive Life Sentences Imposed by the Court. If the court im-  
posed consecutive life sentences the board shall determine the base crime  
and base term. The board shall add adjustments for the remaining life  
terms. The adjustment for each remaining life crime shall be a period of  
time commensurate with the nature of the crime but no less than the peri-  
od of time for which the prisoner is eligible for parole. In no case will the parole date for  
any remaining life crime be earlier than the parole date for concurrent sen-

(3) Concurrent Life Sentences Imposed by the Court. If the court imposed  
concurrent life sentences, the board may add an adjustment be-  
cause the prisoner has been convicted of more than one crime. The sug-  
gested adjustment is the greater of:

(A) Time served on the nonbase life crime prior to reception on the  
base offense; or

(B) The following adjustment:

1. First degree murder: 13 years for a first degree murder committed  
on or after November 8, 1978.

2. Second degree murder: 8 years for a second degree murder com-  
mitted on or after November 8, 1978.

3. One-half the period of parole ineligibility for other life crimes.

(4) Consecutive Nonlife Sentences Imposed by the Court. If the court  
imposed consecutive nonlife sentences the board shall not add additional  
adjustments for the nonlife crimes.

(5) Concurrent Nonlife Sentences Imposed by the Court. If the court  
imposed concurrent nonlife sentences, the board may add an adjustment  
because the prisoner has been convicted of more than one crime. The sug-  
gested adjustment is the greater of:

(A) Time served for the nonlife crime prior to reception on the life of-  
fense; or

(B) One-half the determinate term imposed by the court; or

(C) One-half the term that would be established under Section 2271  
for crimes which carry a sentence of a year and a day.  
NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51,  
669, 1170, 3040 and 3041, Penal Code.

#### § 2438. Circumstances in Aggravation and Mitigation of the Adjustment for Other Crimes.

(a) Circumstances in Aggravation. Circumstances which may justify  
imposition of an adjustment for another crime higher than that suggested  
in Section 2437 include:

(1) Pattern of Violence. A victim was seriously injured or killed in the  
course of the other crime, or there was a substantial likelihood of serious  
injury or death resulting from the acts of the prisoner.

(2) Numerous Crimes. The other crime was one of a series of crimes  
which occurred during a single period of time, showing a pattern of simi-  
lar conduct resulting in convictions but not resulting in adjustments un-  
der Section 2437.

(3) The prisoner has committed multiple crimes which indicate a sig-  
nificant pattern of increasingly serious criminal conduct.

(4) Independent Criminal Activity. The other crime and its objective  
were independent of the base crime or the other crime was committed at  
a different time and place.

(5) Status. The prisoner was on probation or parole or had escaped  
from custody when the other crime was committed.

(6) Other. The other crime included any other circumstances in aggra-  
vation including those listed in the Sentencing Rules for the Superior  
Courts.

(b) Circumstances in Mitigation. Circumstances which may justify  
imposition of an adjustment for another crime lower than that suggested  
in Section 2437, or which may justify no adjustment, include:

(1) Successful Completion of Probation or Parole. The prisoner's per-  
formance on probation or parole for the other crime was good, and the  
prisoner was free of criminal convictions for a reasonable period of time  
following completion of probation or parole.

(2) Probation. The prisoner was granted probation after conviction of  
the other crime.

(3) Other. The other crime included any other circumstances in mitiga-  
tion including those listed in the Sentencing Rules for the Superior  
Courts.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51,  
669, 1170, 3040 and 3041, Penal Code; and Sentencing Rules for the Superior  
Courts.

#### § 2439. Postconviction Credit.

The application of postconviction credit shall be considered as pro-  
vided in Section 2410.

# **EXHIBIT C**

## **Part 1 of 2**

SAN QUENTIN, CA 94974

CDC or ID Number

E-30803

B151232 (T) WID

B074715 (T) WID

B038914 (T) AID

CALIFORNIA COURT OF APPEAL

SECOND APPELLATE DISTRICT

(Court)

ALFONSO CARRANZA,

Petitioner

vs.

ROBERT AYERS JR., Warden,

Respondent

PETITION FOR WRIT OF HABEAS CORPUS

**B202483**

No.

(To be supplied by the Clerk of the Court)

## INSTRUCTIONS - READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form before answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies; courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies.
- If you are filing this petition in the California Supreme Court, file the original and thirteen copies.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rules 56.5 and 201(h)(1) of the California Rules of Court (as amended effective January 1, 1999). Subsequent amendments to Rule 44(b) may change the number of copies to be furnished the Supreme Court and Court of Appeal.

☐ A conviction☒ Parole☐ A sentence☐ Credits☐ Jail or prison conditions☐ Prison discipline☐ Other (specify): \_\_\_\_\_1. Your name: Alfonso Carranza2. Where are you incarcerated? San Quentin State Prison, San Quentin, CA 949743. Why are you in custody? ☐ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

a. State reasons for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Second degree murder, attempted murder, and attempted manslaughter with use of gun.b. Penal or other code sections: Penal Code § 187c. Name and location of sentencing or committing court: California Superior Court, in and for the county of Los Angelesd. Case number: A539854e. Date convicted or committed: October 31, 1988f. Date sentenced: November 1988g. Length of sentence: 14 years and a consecutive 17 years-to-life.h. When do you expect to be released? Minimum Eligible Parole Date: March 15, 2007.i. Were you represented by counsel in the trial court? ☒ Yes ☐ No. If yes, state the attorney's name and address:

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

SEE "INSERT A" attached pages 1, through 12

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time (*when*) or place (*where*). (*If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.*)

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)



VIOLATED WHEN THE BOARD OF PAROLE HEARD HIM PAROLE BECAUSE NO EVIDENCE SUPPORTS THE BOARD'S FINDING AND DECISION THAT PETITIONER IS UNSUITABLE FOR PAROLE AND POSES A CURRENT UNREASONABLE THREAT TO PUBLIC SAFETY

On April 19, 2006, Alfonso Carranza ("Petitioner"), appeared before the Board of Parole Hearings ("BPH") for his initial "Life Term Parole Consideration Hearing." The BPH found petitioner unsuitable for parole and that he would pose an unreasonable risk to society or a threat to public safety if released from prison. The BPH stated that "Nothing that happens here today will change the findings of the court, we are not here to retry your case. Our purpose is solely to determine your suitability for parole." (Exhibit A, Hearing Transcripts ("HT"), p. 9.) However, the record indicates that the BPH did relitigate the case, mischaracterized it as a first degree murder, being calculated, and based its decision on unchanging factors, while ignoring factors that support a finding of rehabilitation and suitability for parole. The BPH based its decision to deny parole on the following:

1. The offense itself is of sufficient severity for the denial. And for that reason the inmate is being denied.
2. The inmate is also being denied because he has an escalating pattern of criminal conduct.
3. The inmate has failed at previous grants of probation and cannot be counted upon to avoid criminality.
4. The inmate has failed to profit from societies previous attempts to correct his criminality such attempts include adult probation as well as your drug rehab.
5. The prisoner has failed to sufficiently participate in self-help and therapy programming.
6. [T]he panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin.
7. The prisoner needs therapy, programming and self-help in order to face, discuss, understand, and cope with stress in a non destructive manner as well as to get further insight

(Exhibit A, HT at p. 83-86.)

After denying Petitioner parole, Deputy Commissioner Thompson commended Petitioner for the following:

[H]e did remain disciplinary free and he has been involved in counseling his peers and the Spanish speaking inmates as well as adjustment issues. And he was noted and commended for that by the church group, I believe it is Jubilee Christian church. And he has a number of letters thanking him for his help and his cooperation in various events. I think they all show a willingness to be socialized and try to have empathy for other people. Which is to be commended and hopefully built on as a good foundation for future life or future contacts. And I think all in all he has made some educational efforts, he did get an equivalency degree. And he has taken English as a second language which makes him a good role model for Spanish speaking inmates who are trying to interface and interrelate to an English speaking, American English admittedly, but an English speaking community. And I think that is all commendable.

(Exhibit A, HT at 86-87.)

The BPH's reason to deny parole must be supported by "some evidence" pertinent to the "relevant standards" promulgated by the BPH to comply with constitutional due process. (*In re Rosenkrantz*, *supra*, 29 Cal.4th at pp. 657-658 & 675-677; see also *In re Dannenberg*, *supra*, 34 Cal.4th at pp. 1071, 1084, 1095, fn. 16.) This requires a BPH panel's decision to deny parole to "have some rational basis in fact." (*Scott II*, 133 Cal.App.4th at p. 590, fn. 6.) As the administrative record of the BPH's review and consideration of the pleadings make clear, there simply is no such rational basis supporting the BPH's decision to deny Petitioner parole.

This is another case which demonstrates the BPH's boiler-plate denial of using the gravity of the offense as the basis to deny parole regardless of a prisoner's efforts and showing of rehabilitation. Putting aside the pre-commitment factors and, commitment offense, "all other factors indicate



the Governor about a reversing a grant of parole based solely on the commitment offense or other pre-commitment factors:

Reliance on such an immutable factor "without regard to or consideration of subsequent circumstances" may be unfair [citation] and "runs contrary to the rehabilitative goals espoused by the prison system and could result in a due process violation." [Citation.] The commitment offense can negate suitability only if circumstances of the crime reliably established by evidence in the record rationally indicate that the offender will present an unreasonable public safety risk if released from prison. Yet, the predictive value of the commitment offense may be very questionable after a long period of time. [Citation.] Thus, denial of release solely on the basis of the gravity of the commitment offense warrants especially close scrutiny.

(Id. at pp. 594-595.) Where such scrutiny reveals that the [BPH] "did not fulfill" the requirement "to consider all other relevant factors," the decision cannot stand. (Id. at p. 595.) Such is the case here.

1. The Facts of the Commitment Offense Do Not Provide a Reasonable Basis to Deny Parole.

The BPH's mischaracterization of Petitioner's commitment offense does not make it "some evidence" to support a finding of unsuitability for parole. In relying on the commitment offense to deny parole, the BPH stated:

Multiple victims were attacked, injured and one was killed during the offense. The offense was carried out in a dispassionate and calculated manner, which demonstrates an exceptional callous disregard for human suffering. The motive for the crime was inexplicable. The sad part of my position [Commissioner Lee] is that I truly do not know what occurred out on the street nor does the Deputy Commissioner. We are only privy to what is submitted before us. The inmate's version is totally at odds with the information we have received in our packets.

(Exhibit A, HT p. 82.)

The BPH cannot base their decision on uncertainty and then used that uncertainty to recharacterize the second degree murder, commitment offense,

We don't have two counts of attempted murder in this case, as the District Attorney characterized it. We have a finding of attempted voluntary manslaughter and that is critical because that shows that this isn't the kind of cold calculated attempt to kill three people that the District Attorney is now trying to promote in a retrial of the case. The manslaughter finding or attempted manslaughter does indicate apparent acceptance either a provocation or unreasonable belief in the need for self-defense. And there is substantial evidence of course in the record that would support this. (HT 61-62). ... All right so I would ask the board to do what it indicated in the vary outset of this hearing of what it was going to do. Which is to consider Mr. Carranza [Petitioner] for parole in accordance with Penal Code Section 3041 and its own rules and regulations. That Penal Code Section provides that the board should normally grant a prisoner or set a parole date for a prisoner at his first parole hearing (HT 64). ... Under the boards rules in terms of multiple victims to start with that is a factor that leans toward a finding of unsuitability for parole. But what is important is that is only if that offense shows he presents a continuing danger at this point. Because we are talking about present dangerousness when we are talking about suitability for parole. The record makes it very plain in this case that kind of entrenched criminality at that time was a the product of a kind of destructive lifestyle he was living involving drugs and weapons (HT 65). ... In terms of pre offense factors. You have no juvenile record, ... lacks any significant history of violent crime. And what you have is no violent criminality outside of this offense. This is his single act of criminal violence (HT 66). ... Institutional behavior has institution activities indicated an enhanced ability to function within the law upon release. And you see that first of all with the behavior of the remarkable record he has of being disciplinary free (HT 67). ... He has his plans for what is most realistic, really the only realistic plan for the future is he is going to be deported to Mexico. And he is fully prepared for that. He has his wife ready to move as need to be back there (HT 69.)

(Exhibit A, HT 61-69.)

"[T]he [BPH] is required to consider whether the prisoner committed the crime as the result of significant stress in his or her life." (Scott II, supra, 133 Cal.App.4th at 596, quoting with emphasis In re Rosenkrantz, supra, 29 Cal.4th at p. 679.) a failure to do so "is arbitrary and capricious

they failed to consider the evidence of the considerable stress that Petitioner was experiencing at the time, which includes being addicted to drugs and alcohol, while being confronted by the victims in a altercation. As petitioner explained in his written version of the offense, Petitioner was not the instigator and was under influence:

On the evening of November 30, 1985 I went to the La Casa Blanca bar. I started to play pool, drink beer, and snort cocaine. When I got into an argument with Raul Munoz [victim] instead of trying to calm the situation down I responded at his [the victim's] level. In my macho mentality I thought it was considered weak to back down from violence. After the heated argument Mr. Munoz left the bar and I stayed to continue to play pool. Just before the bar closed I went outside and saw Mr. Munoz and two men coming at me. Mr. Munoz was cursing at me and I reached over and I was quick to shoot -- And I overreacted, [I]. ... I was living a life that was out of control. ...

(Exhibit A, HT 21-22.)

Though the BPH did mention that "[t]he information apparently in the packets seem to indicate at trial the witnesses did indicate there was an ongoing dispute that apparently on at least two occasions an attempt to solve this particular dispute in fact it seems to indicate there was a point and time where both sides shook hands[]" (HT 82-83), and that "the victim left the bar and went and got his brothers," (HT 16), the BPH ignored the fact that the jury rejected the prosecutor's version of the crime when it found Petitioner guilty of a less capable offense than charged and argued by the District Attorney's office. Furthermore, the BPH recognized that Petitioner's "usage in regards to cocaine[]" (HT 84), at the time of the offense, the BPH decision studiously avoided notice of the evidence of stress that the record spread before them. The BPH not only ignored the evidence that Petitioner was experiencing a significant amount of stress at the time of the offense, but that the stress had built up over a long period of time.

offense tends to show suitability when it was the result of significant stress in his life, especially if the stress has built over a long period of time'"].)

The fact that the BPH describes the commitment offense as "dispassionate and calculated" (HT 82), does not change the analysis. As the on Court has stated: "All second degree murders by definition involve some callousness - i.e., lack of emotion or sympathy, emotional insensitivity, indifference to the feelings and suffering of others. [Citation.] As noted, however, parole is the rule, rather than the exception, and a conviction of second degree murder does not automatically render one unsuitable." (Scott II, supra, 119 Cal.App.4th at p. 891.)

As brutal as Petitioner's homicidal conduct may have been, it did not go beyond what caused that conduct to constitute second degree murder, he did nothing beyond what accomplished the killing to "cruelly or callously exacerbate[] the victim's suffering." Parole authorities may use the factors in Petitioner's case, shooting the victim, to aggravate his term, but that manner of death does not disqualify a prisoner from parole. As the California Court of Appeals, First Appellate District, noted, the BPH's observation that "[t]he offense itself is of sufficient severity for the denial" (HT 83), "could be repeated annually until [Petitioner] dies or is rendered helpless by the infirmities of sickness or age." (Scott II, supra, 133 Cal.App.4th at p. 595.) The manner in which Petitioner shot at the victim is not atypical for a murder case, and hardly acts to "distinguish this crime from other ... murders as exceptionally callous." (In re Smith, supra, 114 Cal.App.4th at p. 367.) As the California Supreme Court has noted on more

murders is contrary to the statute.

The BPH failed to conduct an individualized assessment of all required factors. Clearly, the facts at hand do not meet the requirements set forth by the regulations and the courts to justify the BPH's finding of unsuitability for parole. As the record shows, Petitioner's crime merely satisfies the bare minimum requirements for finding of a second degree murder. He did not torture Mr. Munoz, or lie in wait for him; he did not prolong his suffering, or kill him in order to rob him or incite a race war. His crime, while terrible, does not rise to the level of callousness present in Dannenberg, where after a long period of marital disharmony, the defendant bludgeoned his wife repeatedly with a pipe wrench and then drowned her or allowed her to drown in the bathtub; or Rosenkrantz, where defendant purchased an Uzi and, one week after provocation, shot the victim numerous times at close range and then remained a fugitive for 24 days; or Van Houten, where defendant assisted with multiple stabbings of the victim with a knife and bayonet, after the victim witnessed her husband receiving the same fate, all an effort to incite a race war. See Van Houten, 116 Cal.App.4th at 365. Not only does Petitioner's crime fail on its own to constitute "some evidence" that he is a continuing threat to public safety, but the BPH erred by failing to consider all of factors required by the regulations. Post-commitment facts are essential to determining suitability of parole. The BPH failed to consider Petitioner's perfect post-commitment record, positive psychological and forensic evaluations, exemplary in-prison work record, extensive self-help and therapy, and post release offer of housing and employment in Mexico, and therefore cannot justify his denial of parole.



Cal. May 17, 2006), Judge Patel held that (1) sole reliance on the circumstances of petitioner's offense and conduct prior to the offense in denying parole constituted a due process violation, and (2) denial of parole under California's then-existing no-parole policy for murderers denied the inmate his due process right to be heard by an impartial decision-maker. Judge Patel further found that California inmates have a federally-protected due process liberty interest in parole.

2. The Facts of Petitioner's Escalating Pattern of Criminal
3. Conduct; His Failure at Previous Grants of Probation; and
- & His Failure to Profit from Societies Previous Attempts to
4. Correct His Criminality, Do Not Provide Some Evidence That  
Petitioner is a Current Unreasonable Risk to Public Safety.

The BPH also points to Petitioner's pre-commitment offense behavior. "The inmate began to use cocaine heavily in California. And began to sell cocaine apparently to support his habit. As far as previous contacts the inmate as far as we know has no juvenile contacts. .... 1980. He also has, was arrested I should say for drunk driving in the following month in April. The inmate was ordered to attend a drug and alcohol program at that time. In 1984 the inmate was in possession of a controlled sustains. ...." (HT 14.) In 1984 Petitioner was arrested for possession of gun and cocaine. In 1987 Petitioner was arrested for possession of cocaine and received six years in Federal Prison. (HT 15.) These charges do not rise to the level anticipated in the Regulations which define "Previous Record of Violence" as "previous occasions [prisoner] inflicted or attempted to inflict serious injury on a victim." 15 CCR § 2402(b)(2); see also Van Houten, 116 Cal. App.4th at 353. Possession of cocaine is not assault and Petitioner's arrest for possession of weapon was not an attempt to inflict injury, of any severity,

Record of Violence." (15 CCR § 2402(b)).

Courts have also made clear that the evidence cited by the Executive must be relevant and probative to the factors that such evidence is being used to support. For instance, in Smith, the Governor had pointed to evidence indicating that "the crime was not an isolated incident, but rather the culmination of 'a continuing pattern' of personal drug use, social instability, and violence against Garner." Smith, 114 Cal.App.4th at 367. The court held that though there was some evidence of drug use, such evidence was not relevant to a determination of the key inquiry -- whether the inmate would pose a current, unreasonable threat to public safety.

[T]he observation is more historical backdrop than a reflection of the circumstances surrounding commission of the offense: its manner, scope, and motivation. Indeed, there is no evidence that Smith shot Garner while he was under the influence, and no evidence that he abused her immediately before the shooting or even during the days and weeks before it. Thus, the Governor's observation does not tend to distinguish Smith's offense as especially grave.

(Id. at 368.)

5. There No Evidence That Petitioner Has Failed to Sufficiently Participate in Self-Help and Therapy Programming to Support a Finding of Unsuitability for Parole.

In another recent parole case, the court held that the Board's observation that the inmate had not gained an ability to speak English and that he had failed to upgrade his vocational training was not relevant to support a conclusion that "he would pose an unreasonable risk of danger to society or threat to public safety if released from prison." Nothing in the record indicates that defendant's criminality or ability to support himself was affected by any limitation of his vocational or language skills."

In re Deluna (2005) 126 Cal.App.4th 585, 598; Cf. Van Houten, 116 Cal.App.4th



injury or attempted serious injury to a victim).

6. The Fact That The District Attorney's Office and Victim's Next of Kin Opposes Parole Does Not Constitute "Some Evidence" That Petitioner Currently Poses An Unreasonable Risk to Public Safety.

The BPH cited the District Attorney's Office and Victim's next of kin opposition to a finding of suitability to deny Petitioner parole. (HT 86.) Public outcry cannot be used to determine whether an inmate is suitable for parole. (In re Powell (1988) 248 Cal.Rptr. 431; In re Fain (1983) 139 Cal.App.3d 295.) Furthermore, because Petitioner had no notice that this factor would be used against him, this factor is unconstitutionally vague. (United States v. Doremus, 888 F.2d 630, 634 (9th Cir. 1989) [A statute (or regulation) is void for vagueness : if it fails to give adequate notice to people of ordinary intelligence concerning the conduct it proscribes, or if it invites arbitrary and discriminatory enforcement.] .)

7. There is No Evidence to Support the BPH's Finding that Petitioner Needs Programming and Self-Help in Order to Face, Discuss, Understand, and Cope With Stress in a Non Violent Manner.

Finally, the BPH panel found that Petitioner "needs therapy, programming, and self-help in order to face, discuss, understand and cope with stress in a non destructive manner as well as to get further insight into the crime. Until progress is made the prisoner continues to be unpredictable and a threat to others." (HT 86.)

Petitioner has been disciplinary free his entire time in prison. He has shown that he can cope with stress in a non-destructive manner. In In re Smith, Cal.App.4th at page 371, the court held that evidence that a prisoner used intoxicating substance 20 years prior is not some evidence

[W]e conclude that Smith's past desire for and use of drugs not by itself reasonably established current unsuitability because there is no additional evidence to complete a chain of reasoning between his past drug use and a finding that because of it he currently poses an unreasonable risk of danger if released. In other words, in the absence of some evidence to support a reasonable belief that Smith might start using drugs again, the fact that he used drugs extensively more than 20 years ago does not by itself represent some evidence that he is currently dangerous.

Same holds true in the instant case. There is no reasonable basis to believe that Petitioner might start using alcohol and drugs if released. The BPH is asserting authority that it does not possess, denying parole because a prisoner continues to be unpredictable. "According to a Task Force of the American Psychiatric Association, '[n]either psychiatrist nor anyone else have demonstrated an ability to predict the future violence or dangerousness. [Citation] As our Supreme Court has also noted, 'the same studies which proved the inaccuracy of psychiatric prediction [of dangerousness] have demonstrated beyond dispute the no less disturbing manner in which such prophecies consistently err: they predict acts of violence which will not in fact take place ('false positive'), thus branding as 'dangerous' many persons who are in reality totally harmless. [Citation]" (People v. Burnick (1975) 14 Cal.3d 306, 327.)

Under the clearly established framework of Allen and Greenholtz, "California's parole scheme gives rise to a cognizable liberty interest in release on parole." McQuillion v. Duncan, 306 F.3d 895, 902 (9th Cir. 2002). The scheme creates a presumption that parole release will be granted unless the statutorily defined determinations are made. (Id.; Biggs v. Terhune, 334 F.3d 910, 915-916 (9th Cir. 2003) (finding initial refusal to set a parole date for prisoner with 25-to-life sentence implicated prisoner's liberty interest.) In sum, the structure of California's parole scheme, with its

to due process in parole proceedings.

For the foregoing reasons, the Court should reverse the BPH's findings and order the BPH to set Petitioner's term within the Matrix guidelines for second degree murder. (See Exhibit B, OCR-15 § 2403(c).)

a. Supporting facts:

b. Supporting cases, rules, or other authority:

On April 19, 2006, Alfonso Carranza ("Petitioner"), appeared before the Board of Parole Hearings ("BPH") for his initial "Life Term Parole Consideration Hearing." In its decision to deny Petitioner parole for four-years, the BPH stated:

The panel has reviewed all information received from the public and relied on the following circumstances in concluding the prisoner is not suitable for parole and would pose an unreasonable risk to society or a threat to public safety if released from prison. Multiple victims were attacked, injured and one killed during the offense. The offense was carried out in a dispassionate and calculated manner. The offense was carried out in a manner, which demonstrates an exceptional callous disregard for human suffering. The motive for the crime was inexplicable or very trivial in relationship to the offense. The sad part of my position is that I truly do not know what occurred out on the street nor does the Deputy Commissioner. We are only privy to what is submitted before us. The inmate's version is totally at odds with the information we have received in our packets. ... The inmate is also denied because he has an escalating pattern of criminal conduct. ... The inmate failed at previous grants of probation and cannot be counted upon to avoid criminality. ... The prisoner has failed to sufficiently participate in self-help and therapy programming. ... In regards to inmate's parole plans I think they are sufficient. ... However the panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin.

...

(Exhibit A, Hearing Transcripts, pp. 82-85.)

This case presents interesting issues concerning the procedures and guidelines used by the BPH in reaching and explaining its decisions concerning parole. The issues arise because the BPH has designed procedures (Pursuant to Cal. Penal Code §3041 (a)) that are suppose promote rationality in its decision-making process and to enhance understanding of the that process by all concerned, especially prisoners. The key ingredients of

in deciding the appropriate length of time a prisoner should serve without good-time credit, and then calculating the good-time credit toward that term; and (b) a requirement that a prisoner denied parole receive in writing the reasons for the decision. These aspects of the BPH's guidelines and procedures are detailed in In re Rosenkrantz (2002) 29 Cal.4th 616, 653-654; Cal. Codes of Regs. tit. 15 ("CCR-15") § 2400-2411. (Exhibit B.)

The guideline table sets forth suggested length of time to be served prior to parole for various combinations of two variables: 1) the severity of the offense, and 2) the characteristics of the offender in relation with the victim. The precise issues raised by this case are (a) whether, in determining suitability for parole, the BPH must use the offense for which the prisoner was convicted, or can use the offense the BPH concludes he or she has committed based on the BPH's understanding of facts that allegedly occurred, and (b) whether the BPH can use factors that went into formulating the guidelines for setting terms (in mitigation or aggravation) as the stated reason for denying parole.

As brutal as Petitioner's homicidal conduct may have been, by the BPH's own guidelines, petitioner's term "shall normally" be set at his initial parole hearing, which was held in April 19, 2006. Petitioner Minimum Eligible Parole Date (MEPD) is set at March 15, 2007. As will be shown below, Petitioner should have been found suitable for parole and his term should have been set somewhere in the range of 15 to 19 years, which can be reduced with good conduct credit. (Exhibit B, CCR-15 § 2410.)

The BPH's own guidelines requires the BPH to determine the category most closely related to the circumstances of the crime, and impose the middle base term reflected in the matrix unless the panel finds



situations to be used in determining the category most closely related to the crime being reviewed for setting terms:

#### CIRCUMSTANCES

##### A. Indirect

Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force; e.g., shock producing heart attack; a crime partner actually did the killing.

##### B. Direct or Victim Contribution

Death was almost immediate or resulted at least partial from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victim acting in defense of self or property.

##### C. Severe Trauma

Death resulted from severe trauma inflicted with deadly intensity; e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.

#### OFFENDER'S AND VICTIM'S RELATIONSHIP

##### I. Participating Victim

Victim was accomplished or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred, e.g., crime partner, drug dealer, etc.

##### II. Prior Relationship

Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If the victim had a personal relationship but prisoner hired and/or paid to commit the offense, see Category IV.

##### III. No prior relationship

Victim had little or no relationship with prisoner, or motivation for act resulting in death was related to the accomplishment of another crime, e.g., death of victim during robbery, rape, or other felony.



CCR-15 § 2407 provides Adjustments for Other Offenses:

(a) General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.

(b) Multiple Convictions.

(1) General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.

(2) Consecutive Life Sentences Imposed by the Court. If the court imposed consecutive life sentences the board shall determine the base crime and base term as provided in Section 2403(a). The board shall add adjustments for remaining life crimes. The adjustment for each remaining life crime shall be a period of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the crime. In no case will the parole date for consecutive sentences be earlier than the parole date for the concurrent sentences.

(3) Concurrent Life Sentences Imposed by the Court. If the court imposed concurrent life sentences, the board may add an adjustment because prisoner has been convicted of more than one crime. The suggested adjustment is greater of:

(A) Time served on the nonbase life crime prior to reception on the base offense; or

(B) The following adjustment:

1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.

2. Second degree murder: 8 years for second degree murder committed on or after November 8, 1978.

3. One-half the period of parole ineligibility for other life crimes.

(4) Consecutive Nonlife Sentences Imposed by the Court. If the court imposed consecutive nonlife sentences the Board shall not add additional adjustment for nonlife crime.

(5) Concurrent Nonlife Sentences Imposed by the Court. If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served for nonlife crime prior to reception on the life offense; or

(B) One-half the determinate term imposed by the court; or

(C) One-half the term that would be established under Section 227 (e) for crimes which carry a sentence of one year and one day.

and Matrix. Instead, the BPH based its decision to deny parole on the same factors that went into formulating the guidelines.

The BPH's guidelines recognize that there will be adjustment to be made for elements that go beyond what is necessary to convict for second degree murder. These factors do not preclude a finding of suitability. (See CCR-15 § 2411, Fixing a Parole Date.) (Exhibit B, p. 77-78.)

In Little v. Hadden, 504 F.supp. 558, 561, a federal court addressed the same type of abuse that occurred in this case:

[I]t is unreasonable and impermissible for the Commission to base a decision to continue beyond the guidelines on the same factors that went into formulating the guidelines in the first place. No one disputes that this was a serious crime, but the factors of seriousness indicated by this record are included in the guidelines themselves. ... It is clear to the Court from the record in this case that the Commission has attempted to continue Little in custody beyond the guidelines because of its ad hoc decision regarding the seriousness of the offense, but the factors relied upon are either unsupported by the record or were already considered in formulating the guidelines. ... In short, the Commission's decision is arbitrary and capricious because it is not based on anything in the record before it. Moreover, it reflects an abuse of discretion because it attempts to continue Little's confinement beyond the guidelines without the statutory required good cause.

(See also, Lupo v. Norton, 371 F.Supp. 156 (1974).)

Petitioner's right to a presumption parole release date, Legislative intent, includes "behavioral" credits for participation with "good conduct" under California Penal Code § 2900.5 and CCR-15 § 2900. The BPH's failure to set petitioner's parole release date abrogates this whole Legislative mandate for prisoners with term-to-life sentences. Failure to set a term at the earliest possible time, initial hearing, also precludes Petitioner from participating in self-help programs located at the minimum security

level care of the prison, including family visits and a right to keep family ties strong and to assist the prisoner reentry into the family and community.

In sum, the executive's implementation of the parole system in California has turned upside down the legislative contemplation that murderers normally be found suitable for parole at their earliest parole suitability hearing, which is to be held 13 months before the prisoner becomes eligible for parole (Cal. Penal Code § 3041(a)), and released at a time proportionate to the individual's culpability. Instead of honoring the legislative mandate to normally parole murderers, the BPH had arbitrarily established a policy of almost never permitting parole to them. Consequently, Petitioner has not been afforded federal and state constitutional due process guaranties in the course of the executive's refusal to follow their own guidelines. (See Hicks v. Oklahoma (1980) 447 U.S. 343 [arbitrary deprivation of a state statute affecting life and liberty constitutes a violation of federal due process].)

"The measure of atrociousness is not general notions of common decency or social norms, for by that yardstick all murders are atrocious. ... 'All second degree murders by definition involve some callousness - i.e. lack of emotion or sympathy, emotional insensitivity, indifference to the feelings and suffering of others.' Rather, the inquiry is whether among murders the one committed by [the inmate] was particularly heinous, atrocious or cruel." In re Gray, 151 Cal.App.4th 379, 404 (2007), citing In re Lee, 146 Cal.App.4th 1400 (2006) (italics omitted).

California courts, interpreting the California parole suitability guidelines, have found decisions to deny parole unsupported by some evidence in cases where the petitioner perpetrated the killing on facts much worse

than this case. In each case, the petitioner added proof of emotional distress or others reasons that were more trivial than this case.

For example, In re Copper, supra, petitioner killed his wife with a sledgehammer by hitting her in the neck five or six times. She suffered for 20 to 30 minutes before she died. Cooper then hid the body and covered up his crime. Nonetheless, the Court of Appeal found that "some evidence" consistent with the California parole scheme did not support the decision denying suitability.

In In re Barker, 151 Cal.App.4th 346, 353-354, 372-375 (2007), Barker helped his friend kill his father and grandfather: the friend shot the father, who was watching television, in the head three times and shot the mother two times. The petitioner struck the grandfather on the head three or four times with a chisel and then shot him in the head with a rifle. Nonetheless, this was insufficient to support a finding of unsuitability. "Some evidence" did not support denial.

In In re Lawrence, 150 Cal.App.4th 1511, 1518-1519 (2007), the petitioner was convicted of first degree murder for killing her lover's wife by wounding her in the hand, arm, leg, and neck, and then stabbing her to death with a potato peeler. "Some evidence" did not support the decision denying suitability.

In In re Elkins, 144 Cal.App.4th 475, 480-481, 496-499 (2006), the petitioner beat a friend with a bat until he was dead. He did this while his friend was a sleep. He dumped the body down the side of hill. "Some evidence" did not support the decision denying suitability.

In In re Weider, 145 Cal.App.4th 570, 575-576 (2006), the petitioner killed his victim in the course of a suicidal rage in the middle of a bar and also shot two other patrons, one twice. Weider had gone out to his

going out to his car to retrieve the murder weapon does not reflect the type of heinous, atrocious, or cruel behavior .... rationally indicat[ing] he will present an unreasonable public safety risk if released from prison."). "Some evidence" did not support the decision denying suitability.

In In re Lee, 143 Cal.App.4th at 140, the petitioner went to a restaurant to collect a payment and decided he would kill the debtor if he did not pay. When the debtor indicated he would not pay, petitioner fired five times, hitting the debtor twice, but also killed the debtor's wife by shooting her in the head. "Some evidence" did not support the decision denying suitability.

In each of these cases, California appellate courts have interpreted California law to require more evidence that a crime is especially heinous, atrocious or cruel, or exceptionally callous, when the commitment offense itself is the basis for a finding of unsuitability. "[W]here there is no convincing evidence that the state Supreme Court would decide differently, a federal court is obligated to follow the decisions of the state's intermediate appellate courts." Nelson v. City of Irvine, 143 F.3d 1196, 1206-1207 (9th Cir. 1998). Accord, Assurance Co. of America v. Wall & Associates LLC of Olympia, 379 F.3d 557, 560 (9th Cir. 2004). The California courts' authoritative interpretation of the parole standard governing petitioner's liberty interest refutes the Board's finding in this case.

The BPH may not replace the legal standards for parole with its own personal and political ones. (See, e.g., United States v. Lee (1882) 106 U.S. 196, 220.)

For the forgoing reasons, the Court should find that the BPH violated Petitioner's state and federal due process when it failed to follow its

factors that went into formulating the guidelines in the first place, deeming the guidelines as unconstitutionally vague as applied. The court should order the BPH to hold a new hearing within 30 days, follow its own guidelines, and set Petitioner's term within the guidelines set forth for second degree murder. (See Exhibit B, § 2403(c).)



WHERE INJURED OR KILLED AS A REASON TO DENY PAROLE  
 AND PETITIONER'S DUE PROCESS BECAUSE PETITIONER HAS ALREADY  
 RECEIVED AND SERVED SEPARATED TERMS FOR THE MULTIPLE-COUNTS.  
 BY THE DOCTRINES OF RES JUDICATA AND COLLATERAL ESTOPPEL,  
 THE BOARD IS PROHIBITED FROM USING MULTIPLE VICTIMS AS A  
 REASON TO DENY PAROLE FOR MULTIPLE-YEARS.

On October 31, 1988, in the Los Angeles County Superior Court, a jury convicted Petitioner of second-degree, attempted murder, and attempted manslaughter. Petitioner was sentenced to a determinate term of 14 years and a consecutive, indeterminate term of 17 years-to-life.

On March 15, 1997, after serving his determinate sentence, Petitioner began to serve his 17 years-to-life sentence for the second degree murder. Petitioner's Minimum Eligible Parole Date ("MEPD") is set at March 15, 2007.

On April 19, 2006, pursuant to California Penal Code § 3041(a), Petitioner appeared before the Board of Parole Hearings ("BPH") and was denied parole for four years. In their decision, the BPH stated:

This is the inmate initial hearing. The District Attorney has indicated that five years is the appropriate denial time. I will indicate in a separate decision the hearing panel finds that the prisoner has been convicted of murder as well as attempted homicide and it is not reasonable to expect parole would be granted in the next four years. Sir I will tell you we had discussions about this particular area. But Mr. Satrio does indicate the obvious. You were not given the sentence of life without possibility of parole, you are attempting at this point and time to better yourself. I don't believe five years is appropriate. I think four years is the appropriate amount to get together the things that you need to get together.

(Exhibit A, HT 87.)

The California Code of Regulation Title 15 ("CCR-15") § 2407(b)(4) mandates that "If the court imposed consecutive nonlife sentences the Board shall not add an additional adjustment for the nonlife crime." CCR-15 § 2407(b)(5) states, "If the court imposes concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more



Case 3:08-cv-02511-PJH Document 8-5 Filed 09/03/2008 Page 28 of 76  
for the nonlife crime prior to reception on the life offense; or (B) One-half the determinate term imposed by the court; or (C) One-half the term that would be established under Section 2271(e) for crimes which carry a sentence of one year and one day." (Exhibit B, pp. 76-77.)

The record clearly shows that the BPH abused its discretion and violated Petitioner's rights to be free from double jeopardy or a dual use of the commitment offense. By the doctrines of res judicata and collateral estoppel, the BPH is precluded from reconsidering whether the gravity of Petitioner's nonlife offenses provides a basis for denying him parole. (See, e.g., U.S. v. Schwartz, 785 F.2d 673, 681-682 (9th Cir.)).

The Double Jeopardy Clauses prohibition against prosecution for same offense limits the power of a court, or parole board, to alter sentences. (See, e.g., U.S. v. Arrellano-Rios, 799 F.2d 520, 524-25 (9th Cir. 1986) [defendant who served one-year sentence for aiding and abetting drug crimes could not have sentence increased after related weapons conviction vacated nor could case be remanded to provide government with chance to increase sentence for aiding and abetting drug crime].)

For the forgoing reasons, the court should find that the BPH violated Petitioner's due process when it denied him parole for four years.

WHEN THE BOARD OF PAROLE HEARINGS RELIED ON OPPOSITION FOR PAROLE FROM THE DISTRICT ATTORNEY'S OFFICE AND VICTIM'S NEXT OF KIN AS A REASON TO FIND PETITIONER UNSUITABLE FOR PAROLE. THE VICTIM'S NEXT OF KIN'S FEELINGS, CONCERNS, AND OTHER STATEMENTS WERE ALREADY CONSIDERED DURING THE SENTENCE STAGE AND THEIR PRESENCE, ALONG WITH THE DISTRICT ATTORNEY'S OFFICE PRESENCE, CREATES A CONTAMINATION BY EXTRANEIOUS INFLUENCES IN THE PAROLE PROCEEDINGS.

On October 31, 1988, in the Los Angeles County Superior Court, a jury convicted Petitioner of second-degree, attempted murder, and attempted manslaughter. After considering the statements from the District Attorney's office and victim's next of kin, the court sentenced Petitioner to a determinate term of 14 years and a consecutive, indeterminate term of 17 years-to-life.

On March 15, 1997, after serving his determinate sentence, Petitioner began to serve his 17 years-to-life sentence for the second degree murder. Petitioner's Minimum Eligible Parole Date ("MEPD") is set at March 15, 2007.

On April 19, 2006, pursuant to California Penal Code § 3041(a), Petitioner appeared before the Board of Parole Hearings ("BPH") and was denied parole for four years. In their decision, the BPH stated:

... [T]he panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin. ... The district Attorney has indicated that five years is the appropriate denial time. I will indicate is a separate decision the hearing panel finds that the prisoner has been convicted of murder as well as attempted homicide and it is not reasonable to expect parole would be granted in the next four years. ...

(Exhibit A, HT 87.)

Petitioner has a right to a parole hearing by an impartial panel. The Board of Parole Hearings (BPH) has a the responsibility of protecting this right to ensure that the parole applicant receives a fair and impartial hearing.

Case 3:08-cv-02511-BPH Document 8-5 Filed 09/03/2008 Page 30 of 76  
hearing because the BPH was unduly influenced by the District Attorney's office and victim's next of kin. The District Attorney's office and victim's next of kin will always oppose Petitioner's release.

A decision based on a few facts that will always form the basis for denying parole, amounting to a permanent and virtually automatic denial of parole in a contravention of due process, is clearly arbitrary and capricious. "The presence of a large measure of discretion in a parole system ... does not alter the fundamental due process limitation against capricious decision-making. A legislative grant of discretion does not amount to a license for arbitrary behavior. When the Parole Board bases its decision on factors that bear no rational relationship to rehabilitation or deterrence, it transgresses the legitimate bounds of its discretion." In re Fain (1983) 139 Cal.App.3d 295, 307 (quoting Block v. Potter (3rd Cir. 1980) 631 F.2d 233, 236-37).

The BPH systematically denies parole to all life prisoners by unreasonably finding that the release of almost every life prisoner would jeopardize public safety. The Board always gives a multiple year denial of parole when the District Attorney office or victim's next of kin opposes parole at the initial parole hearing. The Board almost never sets a parole date at the prisoner's initial hearing; rather, it repeatedly postpones the setting of a parole date for the overwhelming majority of prisoners, and rarely grants a life prisoner a parole date no matter how many times it considers the prisoner for release or how much time he has served. The BPH currently grants parole to a very small percentage of eligible lifers - and even more rarely to those who are from another country. (See, e.g., In re Rosenkrantz, supra, 29 Cal.4th at p. 685 [Board granted parole to murderers

in sum, the BPA implementation of the parole system in California has turned upside down the legislative contemplation that murderers normally be found suitable for parole at their earliest eligibility and released at a time proportionate to the individual's culpability. Instead of honoring the legislative mandate to normally parole murderers, the executive has arbitrarily established a policy of almost never permitting parole to them, especially if the District Attorney's office or next of kin opposes parole. Consequently Petitioner has not been afforded federal and state constitutional due process guaranties in the course of the executive's refusal to grant parole to those who have opposition for parole. (See Hicks v. Oklahoma (1980) 447 U.S. 343 [arbitrary deprivation of a state statute affecting life or liberty constitutes a violation of federal due process].) The implementation of the parole law by the executive branch in a manner that disregards both the spirit and the letter of the law also arbitrarily violates the separation of powers doctrine contained in California Constitution, article III, section 3. Finally, an executive practice of parole denial that imposes greater punishment on a prisoner ex post facto violates his right to due process of law. (See, e.g., Young v. Weston (9th Cir. 1999) 176 F.3d 1196 [although law may not be ex post facto on its face, it can be ex post facto as applied]; Rogers v. Tennessee (2001) 532 U.S. 451 [149 L.Ed.2d 697, 121 S.Ct. 1693] [retrospective change in law detrimental to criminal defendant effected by other than legislative/regulatory means implicates due process].)

The contemporary and historical recidivism rate for murderers paroled in California historically is about 2%; the recidivism for other felons paroled in California has been as high as 70% - the highest in the nation. Prisoners as old as Petitioner, particularly after service of long prison

prisoners who have been paroled, whether by court order or otherwise, overall have performed admirably well on parole and demonstrate that the BPH's refusal to grant parole have needlessly caused excessive imprisonment that not only retarded the prisoners' continued rehabilitation and imposed gratuitous pain and suffering on them and their loved ones at a time when the prison system is in crisis due to over-population, but have done considerable damage to the public fisc - all without any measurable increase to public safety and in fact contrary to the interest in public safety.

For the forgoing reasons, Petitioner prays that the Court declare the rights and duties of the parties; grant equitable relief, which requires the BPH to conform their practice of holding parole hearings to the dictates of section 3041 and all statutory, regulatory and constitutional requirements as set forth in the decision of the courts; and all other relief necessary to promote the ends of justice.

d. Case number or citation of opinion, if known: \_\_\_\_\_

e. Issues raised: (1) Ineffective Assistance of counsel; Instruction errors

(2) \_\_\_\_\_

(3) \_\_\_\_\_

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known: \_\_\_\_\_

g. Did you seek review in the California Supreme Court? ☒ Yes. ☐ No. If yes, give the following information: \_\_\_\_\_

1a. Result: Denied without comment or citation b. Date of decision: November 14, 1990

c. Case number or citation of opinion, if known: \_\_\_\_\_

d. Issues raised: (1) Same as above

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal: \_\_\_\_\_

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal. App.3d 500 [125 Cal. Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

There are no administrative remedies available for denial of parole.

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.



(3) Issues raised: (a) SAME AS IN INSTANT PETITION

(b)

(4) Result (Attach order or explain why unavailable): DENIED, ATTACHED

(5) Date of decision: AUGUST 7, 2007

b. (1) Name of court:

(2) Nature of proceeding:

(3) Issues raised: (a)

(b)

(4) Result (Attach order or explain why unavailable):

(5) Date of decision:

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *in re Swain* (1949) 34 Cal.2d 300, 304.)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief and to those matters, I believe them to be true.

Date:

9-22-07

Alfonse Carranza  
(SIGNATURE OF PETITIONER)



EXHIBIT A

INITIAL PAROLE CONSIDERATION HEARING STATE OF CALIFORNIA BOARD OF PAROLE HEARINGS  
SAN QUENTIN STATE PRISON, APRIL 19, 2006

In the matter of the Life )  
Term Parole Consideration )  
Hearing of: )

CDC Number E-30803

ALFONSO CARRANZA )  
\_\_\_\_\_)

**INMATE**

**COPY**

SAN QUENTIN STATE PRISON

SAN QUENTIN, CALIFORNIA

APRIL 19, 2006

PANEL PRESENT:

Mr. Stephen Lee, Presiding Commissioner  
Ms. Joan Thompson, Deputy Commissioner

OTHERS PRESENT:

Mr. Alfonso Carranza, Inmate  
Mr. Michael Sattris, Attorney for Inmate  
Ms. Alexis Delagarza, Deputy District Attorney (vid)  
Mr. Robert Butman, Deputy District Attorney (vid)  
Mr. Timothy Smith, Deputy District Attorney (vid)  
Mr. David Pearson, Deputy District Attorney (vid)  
Mr. Marsh Goldstein, Deputy District Attorney (vid)  
Mr. Hector Munoz, (indiscernible)  
Ms. Cecelia O'Reilly, sister of victim  
Mr. Luis Munoz, brother of victim  
Mr. Anderson, observer

Correctional Officers Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

\_\_\_\_ No See Review of Hearing  
\_\_\_\_ Yes Transcript Memorandum

Jennyfer Osecheck, Peters Shorthand Reporting

INDEX

	<u>PAGE</u>
Proceedings.....	1
Case Factors.....	15
Pre Conviction Factors.....	13
Post Conviction Factors.....	28
Parole Plans.....	42
Closing Statements.....	56
Recess.....	80
Decision.....	81
Transcriber Certification.....	91

--oOo--

2 PRESIDING COMMISSIONER LEE: Ms. Delagarza  
3 can you hear us?

4 DEPUTY DISTRICT ATTORNEY DELAGARZA: Yes I  
5 can, can you hear me?

6 PRESIDING COMMISSIONER LEE: Yes very good  
7 thank you very much. All right, Mr. Satris I  
8 believe we are ready to proceed, are you ready?

9 ATTORNEY SATRIS: We are ready to proceed.

10 PRESIDING COMMISSIONER LEE: Very good. At  
11 this time, just hold on one second here. I will  
12 indicate that this is the Initial Parole  
13 Consideration Hearing for Alfonso Carranza, C-A-  
14 R-R-A-N-Z-A, CDC number E-30803. We are  
15 currently located at San Quentin State Prison.  
16 The date of the hearing is April 19, 2006.  
17 Inmates life term began on March 15, 1997 out of  
18 the county of Los Angeles in case number  
19 LA539854. The offense was murder in the second  
20 degree pursuant to Penal Code Section 187. The  
21 term was set at 31 years to life. Minimum  
22 eligibility for parole is March 15, 2007. At  
23 this time we will make our appearances. My name  
24 is Stephen Lee, L-E-E, Commissioner presiding.  
25 We will go to my right to the Deputy  
26 Commissioner.

27 DEPUTY COMMISSIONER THOMPSON: My name is

2 Deputy Commissioner with the Board of Parole  
3 Hearings.

4 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

5 DEPUTY DISTRICT ATTORNEY DELAGARZA: Alexis  
6 Delagarza, D-E-L-A-G-A-R-Z-A, Deputy District  
7 Attorney Los Angeles County and with me in the  
8 room are some other Deputy District Attorney's  
9 who are observing this particular lifer hearing.  
10 I will have them identify themselves.

11 DEPUTY DISTRICT ATTORNEY BUTMAN: Robert  
12 Butman, Deputy District Attorney, B-U-T-M-A-N.

13 DEPUTY DISTRICT ATTORNEY SMITH: Timothy  
14 Smith, S-M-I-T-H, Deputy District Attorney.

15 DEPUTY DISTRICT ATTORNEY PEARSON: David  
16 Pearson, Deputy District Attorney that is P-E-A-  
17 R-S-O-N.

18 DEPUTY DISTRICT ATTORNEY GOLDSTEIN: Marsh  
19 Goldstein, G-O-L-D-S-T-E-I-N, Deputy District  
20 Attorney.

21 PRESIDING COMMISSIONER LEE: Thank you.  
22 Ms. Delagarza is appearing by video conferencing  
23 and for all parties we will treat her as though  
24 she is in the hearing room with us. Sir?

25 INMATE CARRANZA: My name is Alfonso  
26 Carranza my number is E-30803.

27 ATTORNEY SATRIS: And I am Michael Satris,

2 Carranza.

3 MR. MUNOZ: My name is Hector Munoz and I  
4 am (indiscernible).

5 MS. O'REILLY: I am Cecilia O'Reilly.

6 PRESIDING COMMISSIONER LEE: And your  
7 relationship to the victim?

8 MS. O'REILLY: I am the sister of Alfonso  
9 (indiscernible) Munoz the victim.

10 MR. MUNOZ: My name is Luis Munoz I am the  
11 brother of (indiscernible), my L-U-I-S-M-U-N-O-  
12 Z. And my other brother Pedro Munoz.

13 MR. ANDERSON: Henry Anderson, from the  
14 board of parole hearings, A-N-D-E-R-S-O-N.

15 PRESIDING COMMISSIONER LEE: Observer?

16 MR. ANDERSON: Observer.

17 PRESIDING COMMISSIONER LEE: And we have  
18 officers here for security purposes as well. At  
19 this time I will indicate that the inmate has  
20 certain rights. Sir you have what is called ADA  
21 rights. It appears that there is no documented  
22 (indiscernible) so I will give you a document.  
23 Sir I understand that you speak English, is the  
24 correct?

25 INMATE CARRANZA: Yes I do.

26 PRESIDING COMMISSIONER LEE: All right do  
27 you need any assistance in speaking or

1 understanding the English language?

2 INMATE CARRANZA: No sir.

3 PRESIDING COMMISSIONER LEE: All right.

4 At this time I am going to give you a document  
5 (indiscernible) right now an ADA document. It  
6 is a document that basically states the rights  
7 you have, thank you sir. Could you read that  
8 out loud to us please?

9 ATTORNEY SATRIS: Let me just ask there  
10 wont be any problems with the microphones  
11 picking up the voices, like yourself, with the  
12 way the mikes are positioned is it a pretty good  
13 setup? Because a lot of time there is  
14 indiscernibles that end up in the reporters  
15 transcripts.

16 PRESIDING COMMISSIONER LEE: Unfortunately  
17 the board has been particular issue and I will  
18 have to leave that to the Deputy Commissioner  
19 Thompson.

20 DEPUTY COMMISSIONER THOMPSON: They were  
21 all tested before we began. Everything tested  
22 as recording and appropriate. Unfortunately I  
23 am not an electronics skilled person but the  
24 staff that did set them up is and vouches that  
25 the test was positive for proceeding.

26 ATTORNEY SATRIS: This room does have some  
27 more background noise than some of the others.



1 PRESIDING COMMISSIONER LEE: correct but at  
2 this point and time what I can when we switch  
3 the tape over I will ask the Deputy Commissioner  
4 to check it, to see how well it picked up. So  
5 at this point and time will you read the ADA  
6 statement?

7 INMATE CARRANZA: Ok, The Americans with  
8 Disabilities Act, ADA, is a law to help  
9 people with disabilities. Disabilities  
10 are a problem that make it harder for  
11 some people to see, hear, read, talk,  
12 walk, learn, think, work or take care  
13 of themselves than it is for others.  
14 Nobody can be kept out of public places  
15 or activities because of a disability.  
16 If you have a disability, you have a  
17 right to ask for help to get ready for  
18 your BPT hearing, get to the hearing,  
19 talk, read forms and papers, and  
20 understand the hearing process. BPT  
21 will look at what you asked for to make  
22 sure that you have a disability that is  
23 covered by the ADA, and that you have  
24 asked for the right kind of help. If  
25 you do not get help or if you don't  
26 think you got the kind of help you  
27 need, ask for a BPT 1074 Grievance

2 out.

3 PRESIDING COMMISSIONER LEE: All right  
4 thank you. Sir did you understand what you just  
5 read?

6 INMATE CARRANZA: Yes I do.

7 PRESIDING COMMISSIONER LEE: All right, did  
8 you have any problems getting here today?

9 INMATE CARRANZA: No.

10 PRESIDING COMMISSIONER LEE: All right do  
11 you have any problems with your eyesight?

12 INMATE CARRANZA: A little bit, I wear  
13 glasses.

14 PRESIDING COMMISSIONER LEE: Ok, that was  
15 my second question. With your glasses do you  
16 have any problems?

17 INMATE CARRANZA: No.

18 PRESIDING COMMISSIONER LEE: All right do  
19 you need them to read or merely to see far?

20 INMATE CARRANZA: Just to read.

21 PRESIDING COMMISSIONER LEE: Ok, did you  
22 have the glasses when you went over your Central  
23 File?

24 INMATE CARRANZA: Yes I did.

25 PRESIDING COMMISSIONER LEE: Ok at this  
26 point and time have you ever been involved in  
27 either the Triple CMS or EOP programs?

2           PRESIDING COMMISSIONER LEE: Did you take  
3 any type of psychotropic medication?

4           INMATE CARRANZA: No sir.

5           PRESIDING COMMISSIONER LEE: Have you ever  
6 been in any special education courses?

7           INMATE CARRANZA: No.

8           PRESIDING COMMISSIONER LEE: Do you suffer  
9 from any disability to your knowledge that would  
10 prevent you from participating in today's  
11 hearing?

12          INMATE CARRANZA: Say it again?

13          PRESIDING COMMISSIONER LEE: Do you suffer  
14 from any disability that would prevent you from  
15 participating fully in today's hearing?

16          INMATE CARRANZA: No sir.

17          PRESIDING COMMISSIONER LEE: Ok, Mr. Satris  
18 do you know of any ADA issues that we need to  
19 address?

20          ATTORNEY SATRIS: No we are prepared to  
21 proceed on that basis.

22          PRESIDING COMMISSIONER LEE: This hearing  
23 is this hearing is being conducted, pursuant to  
24 Penal Code Sections number 3041 and 3042 as well  
25 as the rules and regulations of the Board of  
26 Parole Hearings. Governing parole consideration  
27 hearings for life inmates. The purpose of

1 today's hearing is to consider your suitability  
2 for parole. In doing so we will consider the  
3 nature, number of crimes you were committed for,  
4 prior criminal and social history, and your  
5 behavior and programming since your commitment.  
6 We have had an opportunity to review your  
7 Central File, and your prior transcript and you  
8 will be given an opportunity to correct or to  
9 clarify on the record. We will consider your  
10 progress since your commitment, your counselors  
11 report, your psychological report, and any  
12 changes of parole plans should be brought to our  
13 attention. I will indicate to counsel and I  
14 apologize to both counsels that our checklist is  
15 inadequate. The problem being is that there has  
16 been some issues in regards to getting documents  
17 out. Does everyone have the latest board report  
18 as well as the psychological report?

19 ATTORNEY SATRIS: I do.

20 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

21 DEPUTY DISTRICT ATTORNEY DELAGARZA: I do  
22 thank you.

23 PRESIDING COMMISSIONER LEE: All right very  
24 good. At this point and time I will indicate  
25 that we expect at this time to you to be totally  
26 honest with us today. This is your initial  
27 hearing. What that means is that if you are

1   unfortunate enough to not get a date today, this  
2   will be the foundation for all of your future  
3   hearings.  If you mistake something or tell a  
4   lie at this hearing that will be transcribed it  
5   will be on the record.  If you do not get a date  
6   today I will indicate to you any false statement  
7   you make will have an adverse effect on your  
8   ability to get a date in the future.  However  
9   you are not required to discuss the facts of the  
10   case, and that is your right.  Nothing that  
11   happens here today will change the findings of  
12   the court, we are not here to retry your case.  
13   Our purpose is solely to determine your  
14   suitability for parole.  This hearing will be  
15   conducted in three phases.  I will handle your  
16   social history as well as the facts of the  
17   crime.  I will then turn it over to the Deputy  
18   Commissioner who will then discuss with you your  
19   programming while incarcerated as well as your  
20   psychological report.  Then we will discuss your  
21   future plans including any letters of support as  
22   well as letter of opposition.  There are notices  
23   that are sent out pursuant to 3042, which are  
24   sent out to various organizations and  
25   individuals who have special interest in your  
26   case.  We do have a response.  We have a  
27   response not only by the victim's next of kin

1 but also from the District Attorney's office of  
2 Los Angeles County. District Attorney has an  
3 opportunity to ask you questions and make a  
4 statement at the end of this hearing. The  
5 commissioners, the Deputy District Attorney and  
6 your attorney will be given opportunities to ask  
7 you questions, the questions however from the  
8 District Attorney will be addressed through the  
9 chair and your questions will be directed toward  
10 the panel. Before we recess for deliberations  
11 the Deputy District Attorney, your attorney and  
12 you will be given an opportunity to make a final  
13 statement, your statement will be limited to as  
14 to why you feel you are suitable for parole. We  
15 will recess, clear the room and deliberate.  
16 Once we have completed our deliberations we will  
17 resume the hearing and announce our decision.  
18 Pursuant to California code of regulations it  
19 states that regardless of time served a life  
20 inmate shall be found unsuitable and denied  
21 parole if in the judgment of the panel the  
22 inmate poses an unreasonable risk to society if  
23 released from prison. You have certain rights.  
24 These rights include a timely notice of this  
25 hearing, the right to review your Central File,  
26 and the right to present relevant documents. At  
27 this time counsel are there any documents you

1 wish to submit?

2 ATTORNEY SATRIS: No.

3 PRESIDING COMMISSIONER LEE: And to the  
4 best of your knowledge has your client received  
5 his notice in regards to this hearing and review  
6 of his Central File?

7 ATTORNEY SATRIS: Yes, except for certain  
8 notices. We did not receive notice that the  
9 District Attorney would be appearing or that  
10 there would be an appearance by the kin of the  
11 victims. And we did not receive timely notice  
12 of the District Attorney's submission. It was  
13 received by my office on April 13, 2006, I had  
14 not been in to see Mr. Carranza since then. He  
15 never received a copy of the submission. I had  
16 seen Mr. Carranza ten days before the hearing to  
17 make sure that we were fully informed. So I had  
18 briefly had a little time before this hearing to  
19 discuss the unnoticed matters. We are prepared  
20 to proceed but I did want to make that part of  
21 the record.

22 PRESIDING COMMISSIONER LEE: I will  
23 indicate to counsel that, that is a concern and  
24 we have attempted to address that. Often times  
25 the District Attorney sends the items out  
26 properly but based upon our lack of staff we  
27 don't get it out to you, and take my apologies.



1 ATTORNEY SATRIS: I think this time it was  
2 sent timely from the dates I see on this paper  
3 but it didn't get to me on time. And to this  
4 moment it has not gotten to Mr. Carranza.

5 PRESIDING COMMISSIONER LEE: However you  
6 are ready to proceed?

7 ATTORNEY SATRIS: We are.

8 PRESIDING COMMISSIONER LEE: All right. I  
9 am not exactly sure what that noise was but we  
10 will continue on unless they tell us there is a  
11 fire. All right you have an additional right  
12 sir to be heard by an impartial panel. Do you  
13 have any objections to the panel?

14 INMATE CARRANZA: No.

15 PRESIDING COMMISSIONER LEE: You will  
16 receive a copy of our written tentative decision  
17 today, that decision becomes effective within  
18 120 days. A copy of the decision and a copy of  
19 the transcript will be sent to you. You are not  
20 required to admit your offense. But the panel  
21 does accept as true the findings of the court.  
22 We do not have an appellate right but we do  
23 however have a grievance procedure pursuant to  
24 administrative decisions 0401. As I have  
25 indicated to you I do not have an exhibit to  
26 submit to counsels. If there becomes an issue  
27 in regards to documents please let me know and

2    sir would you raise your right hand?   Do you  
3    solemnly swear or affirm to tell the truth, the  
4    whole truth and nothing but the truth?

5           INMATE CARRANZA:   Yes I do.

6           PRESIDING COMMISSIONER LEE:   Is your client  
7    going to discuss with us the facts of the case?

8           ATTORNEY SATRIS:   He is going to exercise  
9    the right you described about not discussing the  
10   facts.   But he is prepared to otherwise speak to  
11   the board on matters related to parole.

12          PRESIDING COMMISSIONER LEE:   Ok, very good.

13          ATTORNEY SATRIS:   His position and our  
14   position is that we understand the board does  
15   accept the court findings and is not here to  
16   retry the case and we similarly accept the  
17   findings and are not here to retry the case.

18          PRESIDING COMMISSIONER LEE:   Very good.   Ok  
19   we will begin.   The inmate was born on November  
20   18, 1959 in and I am not exactly sure how we  
21   pronounce this, Zacatecas Mexico.   To the union  
22   of Maria and Jose Carranza.   Carranza's parents  
23   have been married for 50 years.   The inmate  
24   completed elementary school in Mexico and moved  
25   to Palatine Illinois at the age of 15 years old.  
26   The inmate did not finish his education in the  
27   United States but gained employment doing

1 landscaping and day laborer. On February 11,  
2 1977 the inmate married Theresa Silva in  
3 Palatine Illinois. The inmate has been married  
4 to Theresa for 29 years. From this union then  
5 have one child Linda who is age 27. She is  
6 currently a registered nurse in Illinois. The  
7 inmate also has another child, Eric, who he  
8 fathered with Lupe Vargas. Eric is currently  
9 working as a Mercedes mechanic in Fremont  
10 California. In 1979 the inmate and his family  
11 moved from Illinois to California where the  
12 inmate obtained employment in a paper  
13 manufacturing company making envelopes and  
14 writing tablets. The inmate began to use  
15 cocaine heavily in California. And began to  
16 sell cocaine apparently to support his habit.  
17 As far as previous contacts the inmate as far as  
18 we know has no juvenile contacts. Adult  
19 contacts he had a drunk driving that apparently  
20 was reduced, well I take that back. This was in  
21 1980. He also has, was arrested I should say  
22 for a drunk driving in the following month in  
23 April. The inmate was ordered to attend a drug  
24 and alcohol program at that time. In 1984 the  
25 inmate was in possession of a controlled  
26 substance. Sir what were you arrested for in  
27 1984, do you remember?

1 INMATE CARRANZA: Yes I was arrested in

2 possession of a weapon. A gun and cocaine.

3 PRESIDING COMMISSIONER LEE: All right,

4 cocaine?

5 INMATE CARRANZA: Yes.

6 PRESIDING COMMISSIONER LEE: Ok, why were

7 you carrying a gun and having cocaine in 1984?

8 INMATE CARRANZA: I was living that

9 lifestyle. I used to carry a gun.

10 PRESIDING COMMISSIONER LEE: Why did you

11 carry a gun? Because of your drugs selling?

12 INMATE CARRANZA: Yes.

13 PRESIDING COMMISSIONER LEE: All right.

14 Apparently the inmate also has a federal

15 conviction. What is your federal conviction

16 for?

17 INMATE CARRANZA: They arrested me with

18 cocaine.

19 PRESIDING COMMISSIONER LEE: This was in

20 1987?

21 INMATE CARRANZA: Yes and they gave me six

22 years in Federal Prison.

23 PRESIDING COMMISSIONER LEE: All right.

24 And then we have the current matter. On

25 November 30, 1985 at approximately 1:33 a.m. the

26 victim Raul Munoz and the inmate got into an

27 argument over a quarter that had been placed on

1 a pool table by the inmate who was to play the  
2 next game of pool. According to the victim the  
3 quarter had fallen off the pool table and he  
4 attempted to tell the inmate that the quarter  
5 had fallen off. After trying to tell him two or  
6 three times the inmate appeared to be ignoring  
7 him, he had nothing to say. After a few moments  
8 the inmate faced the victim and stated in  
9 Spanish do you want me to kick your ass. At  
10 this time the victim Raul stood up and stated  
11 anytime you want. After they pushed and shoved  
12 one another a couple of times the victim stated  
13 if we are going to fight let's do it. Inmate  
14 suddenly backed down and resumed, got back into  
15 some type of conversation. The victim seeing  
16 that he was outnumbered left the bar and went  
17 and got his brothers, victim Juan and victim  
18 Pedro. When he returned to the bar he asked his  
19 two brothers to wait outside while he was  
20 inside, to see what the inmate was up to. Once  
21 inside the victim confronted the inmate however  
22 things calmed down and there was no actual  
23 physical confrontation. While things were  
24 coming down one or calming down I should say,  
25 the victim's friends excuse me, the inmates  
26 friend attempted to hit victim Raul but he was  
27 grabbed by victim Pedro. And victim Pedro

1 prevented him from doing so. At this time the  
2 owner of the bar told the suspects and the  
3 victims he didn't want any fighting inside the  
4 bar and asked them to calm down. After a short  
5 conversation the victim and the defendant  
6 apparently shook hands and it appeared that  
7 there was no more altercation. Consequently the  
8 victim decided to leave the restaurant and go  
9 home. As he was about to step out and leave the  
10 bar one of the inmate's friends told him he  
11 wanted to talk to him outside. Feeling there  
12 was going to be a possible fight the victim took  
13 off his jacket. Instead of having a physical  
14 altercation, strike that. Apparently there was  
15 some discussion and while this was being said  
16 the door of the bar opened and the inmate  
17 stepped out and pointed a handgun directly at  
18 the victim. The victim was about ten to twelve  
19 inches from the inmate when the inmate fired one  
20 round striking him in the neck. After shooting  
21 the gun the victim began to run, he was then  
22 shot in his leg. The victim Juan Munoz appeared  
23 to be frozen in terror and the inmate merely  
24 pointed the gun at him and shot him once.  
25 Victim Munoz said that his brother was a  
26 distance of approximately five feet away from  
27 him when he was shot. When this happened victim

1 Munoz said he ran towards the sidewalk area to  
2 get away from the inmate, in doing so he heard  
3 two more shots fired at him. None of these  
4 rounds apparently struck him. He then saw the  
5 inmate and one of his friends enter some type of  
6 vehicle and leave the location. At this point  
7 and time the witness indicated he noted his  
8 brother Juan lying on the ground in the parking  
9 lot. And later his cousin Sanchez came to help.  
10 At the hospital the victim was pronounced dead.  
11 At this point and time before we go any further  
12 I have stated on the record the inmates social  
13 history as well as his priors and the facts of  
14 the case. At this point and time sir this is a  
15 opportunity to make any corrections. Is there  
16 anything that I have indicated for which you  
17 feel is inaccurate or need explanation?

18 ATTORNEY SATRIS: Well let me speak to that  
19 at least in terms of the offense.

20 PRESIDING COMMISSIONER LEE: Let me  
21 (indiscernible) the question that I just did,  
22 all right. At first in regards to the social  
23 history and the priors is there anything the  
24 inmate wishes to clarify or respond to at this  
25 time?

26 INMATE CARRANZA: No sir.

27 ATTORNEY SATRIS: Let me just say on that



1 then. I think it might be useful to elaborate  
2 on that a little bit. On the background in  
3 terms of your wife and so forth. You know you  
4 know her from all the way back in Mexico.

5 INMATE CARRANZA: Yah.

6 ATTORNEY SATRIS: Could you just tell the  
7 board a little bit about that?

8 INMATE CARRANZA: About my wife?

9 ATTORNEY SATRIS: Yes meeting her, how you  
10 know her and the family and so forth?

11 INMATE CARRANZA: I knew my wife since we  
12 were in Mexico in Zacatecas. We were little on  
13 the ranch. You know her parents and my parents  
14 knew each other. They kind of grew up together  
15 too. Then we came to Chicago Illinois and I  
16 came across her again and we started dating and  
17 we got married. I have been with my wife for 29  
18 years.

19 PRESIDING COMMISSIONER LEE: And apparently  
20 she still supports you?

21 INMATE CARRANZA: Yes.

22 PRESIDING COMMISSIONER LEE: All right,  
23 where is she living, what city?

24 INMATE CARRANZA: She lives in Round Lake  
25 with my daughter.

26 PRESIDING COMMISSIONER LEE: Anything else  
27 counsel?

1  
2 the eldest of eight is that right?

3 INMATE CARRANZA: Yes.

4 ATTORNEY SATRIS: Could you just briefly  
5 talk about your family?

6 INMATE CARRANZA: Ok, my father and my  
7 mother Jose Carranza and Maria (indiscernible) I  
8 am the oldest of eight children. We grew up on  
9 Mexico, then we came to the United States. And  
10 they went to school and they did something with  
11 their lives and I didn't, I took the wrong path.

12 PRESIDING COMMISSIONER LEE: We have quite  
13 a few letters and we will go through them  
14 shortly. Is there anything else you would like  
15 to tell us about your period of time while you  
16 were growing up anything that you would want us  
17 to know?

18 INMATE CARRANZA: Well --

19 PRESIDING COMMISSIONER LEE: Let me ask you  
20 this question straight out. Why did you get  
21 involved in drugs?

22 INMATE CARRANZA: I don't know. It is not  
23 like I planned to get involved in drugs. You  
24 know I was into going to bars with my uncles and  
25 cousins and you know I was introduced to drugs.  
26 And I got hooked on drugs.

27 PRESIDING COMMISSIONER LEE: Primarily

1  
2 INMATE CARRANZA: Yes (indiscernible).

3 PRESIDING COMMISSIONER LEE: And alcohol?

4 INMATE CARRANZA: Yes.

5 PRESIDING COMMISSIONER LEE: All right, Mr.

6 Satris anything else?

7 ATTORNEY SATRIS: No I think it can wait  
8 until the letters they will cover it.

9 PRESIDING COMMISSIONER LEE: At this point  
10 and time I will go to the next aspect and that  
11 is that the inmate has elected not to discuss  
12 the facts of the case so I will read the  
13 prisoners version from the April 2006 board  
14 report. On the evening of November 30, 1985 he  
15 went to the La Casa Blanca bar. I started to  
16 play pool, drink beer, and snort cocaine. When  
17 I got into an argument with Raul Munoz instead  
18 of trying to calm the situation down I responded  
19 at his level. In my macho mentality I thought  
20 it was considered weak to back down from  
21 violence. After the heated argument Mr. Munoz  
22 left the bar and I stayed to continue to play  
23 pool. Just before the bar closed I went outside  
24 and saw Mr. Munoz and two men coming at me. Mr.  
25 Munoz was cursing at me and I reached over and I  
26 was quick to shoot--

27 ATTORNEY SATRIS: And I overreacted.

1 PRESIDING COMMISSIONER LEE: And I

2 overreacted, excuse me. I overreacted and was  
3 quick to shoot them. After shooting them I got  
4 into my car and drove away. When I sobered up I  
5 realized what I had done, and the seriousness of  
6 my actions and fearing punishment I did not turn  
7 myself in. Back then I never thought about how  
8 destructive my lifestyle was, I was living a  
9 life that was out of control. I refused to take  
10 responsibility for myself and for those I hurt  
11 around me. I put my family through much pain  
12 and suffering. At this point and time I will  
13 stop the rest of the information is not related  
14 to the facts of the case. At this point and  
15 time sir I can ask you, I am not asking you in  
16 regards to the facts of the case, but you have  
17 been incarceration for approximately 20 years  
18 have you learned anything these last 20 years?

19 INMATE CARRANZA: Yes I learned first of  
20 all I learned English as a second language. And  
21 I got my GED equivalency. I got training as a  
22 peer health educator. And I work with Center  
23 force educating people, inmates upon their  
24 arrival to the institution. And I talk to them  
25 about the risk of HIV, AIDS, hepatitis,  
26 especially hepatitis C., and STD, Sexually  
27 Transmitted Diseases. And you know I have been

1 working for the last four years for them.

2 ATTORNEY SATRIS: I think maybe if I may  
3 to, I think the question is a little bit also  
4 directed at what have you learned about yourself  
5 and has that effected the attitude towards your  
6 criminal actions and the offense?

7 INMATE CARRANZA: Thank you. Well I came  
8 to realize upon my arrest, that they didn't  
9 arrest me they rescued me from my life of self-  
10 destruction and causing pain and suffering to  
11 other people.

12 ATTORNEY SATRIS: And particularly your  
13 attitudes about, about the crime that has  
14 brought you here to prison life?

15 INMATE CARRANZA: I really apologize for  
16 what I did. I wish I can go back and change  
17 things but that is impossible. I wish this  
18 never would have happened. I am totally sorry  
19 and I take full responsibility for the pain and  
20 suffering I caused the victims and their  
21 families. And I would like to ask them for  
22 their forgiveness. I am very sorry for what I  
23 did to them.

24 PRESIDING COMMISSIONER LEE: Ok, let me ask  
25 you have you been involved in any victims or  
26 groups here at San Quentin?

27 INMATE CARRANZA: No not yet, I am just

1 involved with AA.

2 PRESIDING COMMISSIONER LEE: One expects  
3 that people change over 20 years, have you  
4 changed sir?

5 INMATE CARRANZA: I feel and I know I am a  
6 totally different person. I am 46 years old and  
7 I am a totally different person.

8 PRESIDING COMMISSIONER LEE: How are you  
9 totally different?

10 INMATE CARRANZA: Because I am not the same  
11 person I was back then. Because I grow up,  
12 mature as a person. I am an older person. I  
13 became to know god in here.

14 ATTORNEY SATRIS: And have your values  
15 changed?

16 INMATE CARRANZA: (Indiscernible).

17 ATTORNEY SATRIS: Could you explain to the  
18 board in those regards?

19 INMATE CARRANZA: Well back then I didn't  
20 care you know the lifestyle I was living. Now  
21 I, I think totally different. I care for other  
22 people I care for my family, my kids. And I try  
23 to do good to people.

24 PRESIDING COMMISSIONER LEE: All right. I  
25 am not going to discuss with you NA or AA at  
26 this time because the Deputy Commissioner will  
27 discuss those with you shortly. However I will

1 in fact indicate--

2 DEPUTY DISTRICT ATTORNEY DELAGARZA:

3 Commissioner I can't hear you.

4 PRESIDING COMMISSIONER LEE: All right -

5 DEPUTY DISTRICT ATTORNEY DELAGARZA: I am  
6 sorry I can't hear you.

7 PRESIDING COMMISSIONER LEE: That's all  
8 right. I will speak up. I just basically  
9 indicated that I will not discuss AA and NA with  
10 the inmate since the Deputy Commissioner will  
11 discuss that with him shortly. Is that better?  
12 Can you hear me?

13 DEPUTY DISTRICT ATTORNEY DELAGARZA: That  
14 is fine thank you.

15 PRESIDING COMMISSIONER LEE: The phone was  
16 in the way. I will indicate to you sir if you  
17 are released at this point and time what will  
18 keep you from going back to that lifestyle you  
19 indicated earlier?

20 INMATE CARRANZA: I will seek some kind of  
21 support out there. AA or NA and I have the  
22 support of my family and I will never fail them  
23 anymore (sic).

24 PRESIDING COMMISSIONER LEE: You think that  
25 would be sufficient?

26 INMATE CARRANZA: I do.

27 ATTORNEY SATRIS: And your church is that



1 important also?

2 INMATE CARRANZA: Yes.

3 PRESIDING COMMISSIONER LEE: You say your  
4 church is there a particular church outside that  
5 you are associating with right now?

6 INMATE CARRANZA: Yes.

7 PRESIDING COMMISSIONER LEE: Which church  
8 is that?

9 INMATE CARRANZA: Jubilee Christian Center  
10 in San Jose.

11 PRESIDING COMMISSIONER LEE: Ok all right  
12 that is a very large church.

13 INMATE CARRANZA: Yes it is.

14 PRESIDING COMMISSIONER LEE: All right is  
15 there a prison ministry or do you happen to know  
16 someone there?

17 INMATE CARRANZA: Yes my son goes to that  
18 church and his pastor visits me from time to  
19 time.

20 PRESIDING COMMISSIONER LEE: Ok, when you  
21 say his pastor you are not talking about the  
22 senior pastor you are talking about the prison  
23 ministry pastor?

24 INMATE CARRANZA: No I am talking about the  
25 Jubilee Christian Center, the pastor for the  
26 Spanish ministry. The Spanish ministry, they  
27 have the English ministry (indiscernible).

1 PRESIDING COMMISSIONER LEE: All right.

2 INMATE CARRANZA: And we also have  
3 volunteers who come over here and talk to us  
4 about Jesus and the bible. And I have support  
5 from that to if I get released I have a place to  
6 go.

7 PRESIDING COMMISSIONER LEE: Now sir you  
8 indicated that there was a change in your life  
9 apparently you now know god better than you did  
10 before. When did this occur?

11 INMATE CARRANZA: Like in a few months  
12 after I got arrested.

13 PRESIDING COMMISSIONER LEE: Back in 1985?

14 INMATE CARRANZA: No, I got arrested in  
15 1987.

16 PRESIDING COMMISSIONER LEE: So somewhere  
17 around 1988?

18 INMATE CARRANZA: Yah somewhere around that  
19 time.

20 PRESIDING COMMISSIONER LEE: All right I  
21 have no further questions at this time. I will  
22 turn it over to the Deputy Commissioner, the  
23 Deputy Commissioner will discuss with you your  
24 programming as well as your psychological  
25 report.

26 DEPUTY COMMISSIONER THOMPSON: Ok, thank  
27 you. You arrived in California in the

1 Correctional system in 1989. You had been I  
2 believe in Minnesota.

3 INMATE CARRANZA: Midland Michigan.

4 DEPUTY COMMISSIONER THOMPSON: Michigan  
5 pardon me. You finished some term there then  
6 came, you moved among various institutions for  
7 the next, then you were reduced in custody  
8 level. You were reduced in classification  
9 score. You apparently at this time have a score  
10 of zero classification or did they do the  
11 minimum for lifers?

12 INMATE CARRANZA: Yah they did a minimum  
13 for lifers, they gave us the 19 points.

14 DEPUTY COMMISSIONER THOMPSON: But up till  
15 then you had a classification score of zero.

16 INMATE CARRANZA: I had a minus.

17 DEPUTY COMMISSIONER THOMPSON: At this time  
18 disciplinary you have only one and that is a  
19 counseling chrono that you received in December  
20 of 2000 for being out of bounds. Is that  
21 correct?

22 INMATE CARRANZA: Yes.

23 DEPUTY COMMISSIONER THOMPSON: And there  
24 has been none subsequent to that. Academically  
25 you did achieve your GED. When was that? What  
26 year?

27 INMATE CARRANZA: It was like in 1994 or

1 INMATE CARRANZA: Yes when I first got here  
 2 in 1995 from Corcoran I came here and I started  
 3 working in R and R, receiving and release. We  
 4 would receive and release inmates. I worked  
 5 there for about two and a half years and then  
 6 they moved me to north block as a porter. I was  
 7 a laundry man doing Landry for the incoming  
 8 inmates from reception center. I did that  
 9 until, I worked there for approximately 19,  
 10 almost 2001 something like that. Then I went to  
 11 work at the joint venture where they were paying  
 12 me minimum wage. They removed me from that  
 13 position because I have an active INS hold.

14 DEPUTY COMMISSIONER THOMPSON: Correct.

15 INMATE CARRANZA: So then I went to work to  
 16 Centerforce. First I went through health  
 17 training a five-day training. And then they  
 18 offered me a job. I got hired by them and I  
 19 have been working with them ever since.

20 DEPUTY COMMISSIONER THOMPSON: And then it  
 21 seems you have become or perhaps were a master  
 22 leather craftsman.

23 INMATE CARRANZA: Yes, I work with leather.  
 24 I make all kind of items, purses, wallets, and  
 25 belts. I do tooling, carved, I make all the  
 26 officers and staff what they wear their gear.  
 27 Alarm holders, haircut cases, pepper spray

1 holders, double key holders and all that stuff.  
2 I make that, I put them in the gift shop for  
3 sale.

4 DEPUTY COMMISSIONER THOMPSON: And it says  
5 you have been successful in that to the extent  
6 that you send home money to put your children,  
7 help put your children through school and help  
8 your wife buy a home.

9 INMATE CARRANZA: Yes when they were going  
10 to school I was able to send, I had the  
11 privilege and blessing to send them money for  
12 books or whatever. And that is on the record  
13 too I think.

14 DEPUTY COMMISSIONER THOMPSON: It is?

15 INMATE CARRANZA: Yah, and I send money to  
16 my wife when we bought the house.

17 DEPUTY COMMISSIONER THOMPSON: And that  
18 house is in Round Hills?

19 INMATE CARRANZA: Round Lake.

20 DEPUTY COMMISSIONER THOMPSON: Round Lake  
21 Illinois. And she still has that home and still  
22 occupies it?

23 INMATE CARRANZA: Yes, she and my daughter.

24 DEPUTY COMMISSIONER THOMPSON: Yes your  
25 daughter who is a nurse. Now as to self-help  
26 you were on the AA and NA waiting list for two  
27 years. But you began going in this year.

1 that correct?

2 INMATE CARRANZA: Yes.

3 DEPUTY COMMISSIONER THOMPSON: And you are  
4 still attending those on a regular basis?

5 INMATE CARRANZA: Yes and I will continue  
6 attending.

7 DEPUTY COMMISSIONER THOMPSON: All right on  
8 the psychological evaluation report that your  
9 counselor did for this hearing in this year of  
10 April 2006 it says you have a positive attitude.  
11 And you would benefit from remaining

12 disciplinary free and that you it notes that you  
13 have family resources and employment resources  
14 as well.

15 INMATE CARRANZA: Yes.

16 DEPUTY COMMISSIONER THOMPSON: You were  
17 aware of that?

18 INMATE CARRANZA: Yes fully aware.

19 DEPUTY COMMISSIONER THOMPSON: Ok,  
20 anything, I wanted to go back. You have a  
21 certificate of appreciation you have actually  
22 four of them. Two from Center Point, one from  
23 the Protestant Chaplain Ministry, and what is  
24 VVGSQ?

25 INMATE CARRANZA: That is the veterans  
26 Vietnam, Vietnam veterans group.

27 DEPUTY COMMISSIONER THOMPSON:



1 have also a certificate of appreciation from  
2 that group.

3 INMATE CARRANZA: From that group, yes.  
4 DEPUTY COMMISSIONER THOMPSON: And then you  
5 have laudatory chronos. One, two, three, four,  
6 five, six, seven, eight laudatory chronos  
7 between October of 1999 and March 7, 2006. The  
8 last being from the Protestant Chaplain in  
9 recognition of your counseling work with the  
10 Spanish Christian community. And I want to make  
11 sure that is the extent of them. You have at  
12 least 18 letters of support. 17 were written in  
13 the year of 2005. And you received one in  
14 January of this year, January 3, 2006 from the  
15 Jubilee Christian Center. I think that was the  
16 church you were discussing earlier. Did we  
17 leave anything out about when you arrived, since  
18 you have arrived in CDC?

19 INMATE CARRANZA: Not that I recall.

20 DEPUTY COMMISSIONER THOMPSON: Ok, thank  
21 you then I would turn to the psychiatric or  
22 psychosocial evaluation. That was prepared on  
23 March 6, 2006. And they review many of the  
24 factors that you and Commissioner Lee have  
25 already discussed. And I think we have touched  
26 on. The current diagnostic impression on AXIS I  
27 is adult anti social personality.



1 acculturation problem by history, alcohol  
2 dependence in a controlled environment, I  
3 presume they mean to say it is in remission.  
4 And cocaine dependence in a controlled  
5 environment would be in control. On AXIS II  
6 which is the mental disorder as opposed to  
7 disease there is no diagnosis. And on AXIS III  
8 which relates to physical symptoms or  
9 contributory causes they listed degenerative  
10 disc disease. On AXIS IV which is your overall  
11 approach they see your stressors as the life  
12 sentence itself. And you have a Global  
13 assessment of functioning of 85, which is a very  
14 good score. You were aware of this?

15 INMATE CARRANZA: Yes thank you.

16 DEPUTY COMMISSIONER THOMPSON: All right  
17 then they went to your contention that you shot  
18 the victim in self-defense and that he saw at  
19 least one man had a weapon. Is that your  
20 recollection of the event? Or did you not want  
21 to talk about that. I don't want to go into the  
22 facts of the case.

23 ATTORNEY SATRIS: I don't think it is, I  
24 don't know how to say this. I think he would  
25 stand by his offense where he did say he did  
26 shoot to irrationally and I think to much. And  
27 that is what the verdicts reflect

1 manslaughter and then the murder. But the  
2 evidence did show that there was a knife that  
3 was found at the scene where one of the victims  
4 had fallen.

5 DEPUTY COMMISSIONER THOMPSON: Ok we can  
6 move on. Next point within this, it is a very  
7 extensive report and reiterates a lot of the  
8 factors that have already been discussed. But  
9 we turned to the section of assessment of  
10 dangerousness. In a controlled environment the  
11 risk of violence is felt to be considered low.  
12 As would seem quite reasonable. If the risk  
13 assessment upon release to the community you  
14 don't have any of the dynamic factors related to  
15 violence in the opinion of the author. However  
16 there is a notation that should you relapse into  
17 drugs or alcohol then that risk factor would  
18 increase and that it would be a consideration.  
19 And it was recommended you build yourself as it  
20 were a safety net with AA and NA and any other  
21 support groups religious or whatever nature that  
22 you could find yourself connected with. And it  
23 seems that you said at one point your involvement  
24 in drugs as a seller resulted in your own use of  
25 drugs. And that you had at some point to get  
26 into that life to support your habit.

27 INMATE CARRANZA: Yes.

1           DEPUTY COMMISSIONER THOMPSON: And that you  
2    contend that you do not have a problem of  
3    substance abuse since you haven't used since you  
4    were incarcerated. And I would say that is a  
5    reasonable observation but hopefully there  
6    wasn't any that you could have used in the  
7    incarcerated situation. Though it is kind of  
8    one of those questions like we stop beating your  
9    wife no matter how you answer it, it is not  
10   going to be a good answer. He feels strongly  
11   that he has put this problem behind him and  
12   hopefully he has.

13           INMATE CARRANZA: I feel strongly that I  
14   have put that problem behind me. I mean there  
15   is drugs in prison and but you know alcohol and  
16   all that stuff but you know thank god I feel  
17   like I overcome that addiction. And I know  
18   those addictions you know caused me to do a lot  
19   of harm to people. And I consider that  
20   addiction my enemy. I consider that it is like  
21   kissing a cobra. I feel that way. But I still  
22   feel like I will benefit out there and here and  
23   out there from self-help groups, support groups.

24           DEPUTY COMMISSIONER THOMPSON: What I would  
25   say in the least is it couldn't hurt and  
26   hopefully they would help.

27           INMATE CARRANZA: Oh yes.

1 DEPUTY COMMISSIONER THOMPSON: And it  
2 concludes essentially and the report is by a  
3 Michael Lynn Ynava PhD. That or is it Michelle.

4 ATTORNEY SATRIS: Michelle?

5 DEPUTY COMMISSIONER THOMPSON: It is  
6 Michelle Lynn Ynava PhD., which again was done  
7 on March 6, 2006. That you would benefit from  
8 further discussion of the facts surrounding your  
9 offense and would hope that this could begin in  
10 the near future. As his parole plans seem  
11 likely to proceed. And she would hope for or  
12 believe that if the same factors of drugs and  
13 alcohol did not recur in your life, violence  
14 would hopefully not be likely to reoccur. But  
15 should they recur problems would likely suffice.  
16 And basically that concludes what I have gleamed  
17 from this report. At this time do you have any  
18 thing you want to add or point out that I didn't  
19 cover or address?

20 INMATE CARRANZA: Like I said before I  
21 would like to get into a program you know like  
22 empathy for victims and --

23 DEPUTY COMMISSIONER THOMPSON: I am sure  
24 whatever self-help programs are offered at San  
25 Quentin if you can have the time and the  
26 opportunity would all be beneficial to you. And  
27 you should address entering them if you can. I

1 think those would all be positive influences.  
2 But if you have no particular question I would  
3 reiterate there is an active US INS hold and a  
4 strong liability that is you would be deported  
5 upon any release to parole. And you do have  
6 some plans in Mexico and I do have something to  
7 address in the parole planning issue. Or the  
8 parole goals if you will. And when we get to  
9 that section I will take those on accordingly.  
10 Is there anything you have a question about as I  
11 say that I have touched on at this point?

12 ATTORNEY SATRIS: Let me just say back to  
13 the psychiatric report just to elaborate on the  
14 notion that he does not have any dynamic factors  
15 related to violence. Dynamic meaning anything  
16 that can change. So all of the changes have  
17 been away from violence. And what the doctor  
18 goes on to say there is no recent history of  
19 loss of control or impulsive behavior. He does  
20 not appear to be at all an angry person. He is  
21 grateful to his wife and family for their  
22 generous support of him over the years. And he  
23 has demonstrated a capacity for empathy and  
24 compassion, although that can be further  
25 developed. And then it goes on to talk a little  
26 bit at some length in ways that Mr. Carranza I  
27 think has already spoken about recognizing the

1 harm of his actions and the negative effect they  
2 have on everybody. It is a motivator for doing  
3 well in the future so --

4 DEPUTY COMMISSIONER THOMPSON: I think we  
5 agree. It touches on the matters we have  
6 discussed, expands them to some degree but the  
7 general tone I think is positive but at the end  
8 the prognosis is still to be hopeful. And I  
9 think it capsulate it all.

10 ATTORNEY SATRIS: Ok.

11 DEPUTY COMMISSIONER THOMPSON: And if there  
12 is no question at this point on the institution  
13 or post conviction factors I would move to the  
14 parole section.

15 PRESIDING COMMISSIONER LEE: I have a  
16 question we have disciplinary 128 December 1,  
17 2000, is that correct?

18 DEPUTY COMMISSIONER THOMPSON: That is  
19 correct.

20 PRESIDING COMMISSIONER LEE: Would the  
21 inmate like to tell us why he received the 128  
22 in December of 2000?

23 ATTORNEY SATRIS: I think we will rest on  
24 the record there, it is a 128 it is not even a  
25 disciplinary rules violation report. I don't  
26 think there is to much more to add there.

27 PRESIDING COMMISSIONER LEE: All right, Mr.



1 Satris do you want to say something?

2 ATTORNEY SATRIS: I was just going to say  
3 if we are talking about chronos we didn't, we  
4 mentioned one, two, three, four, five, six,  
5 seven and eight laudatory chronos and but I  
6 would just say they address a range of behavior  
7 by Mr. Carranza relating to job performances is  
8 outstanding. The various donations he has made  
9 to victims and survivors for example on  
10 September 11 the children toys and candy around  
11 Christmas has also completed over a 100 hours of  
12 hatha yoga that is good for stress reduction and  
13 basic self knowledge and then has done the  
14 counseling work in the Spanish Christian  
15 community.

16 PRESIDING COMMISSIONER LEE: Very good  
17 however you are instructing your client at this  
18 time not to discuss with me what occurred on  
19 December 2000?

20 ATTORNEY SATRIS: One problem is, I don't,  
21 that chrono was not in the material that I  
22 received.

23 PRESIDING COMMISSIONER LEE: Are you  
24 indicating it is not in the Central File?

25 ATTORNEY SATRIS: No I am indicating it is  
26 not in the lifer packet. If you will give me a  
27 moment, let me see what I have, I thought that



# **EXHIBIT C**

## **Part 2 of 2**

1 the chrono laudatory and negative are typically  
2 included in the packet but they weren't.

3 PRESIDING COMMISSIONER LEE: No that is  
4 just a summary.

5 ATTORNEY SATRIS: Out of bounds, do you  
6 want to speak about the out of bounds Mr.  
7 Carranza?

8 INMATE CARRANZA: I think I was just out of  
9 bounds. They had some lines in the lower yard  
10 you know some lines and I work close to R and R  
11 and there are some lines that the inmates are  
12 not supposed to cross. And I work there, I work  
13 there and the officer gave me a verbal  
14 counseling and I explained to him that I was a  
15 worker but he never asked me for my work card.

16 PRESIDING COMMISSIONER LEE: Ok, Deputy  
17 Commissioner how are we doing on the tape.

18 DEPUTY COMMISSIONER THOMPSON: I believe, it  
19 looks like we have a reasonable amount left. It  
20 looks like there is maybe an eighth of a tape  
21 left at this point.

22 PRESIDING COMMISSIONER LEE: All right we  
23 will continue on.

24 DEPUTY COMMISSIONER THOMPSON: Sufficient  
25 to go through the parole I am sure and then  
26 maybe we ought to turn it to be on the safe  
27 side.

1 PRESIDING COMMISSIONER LEE: All right.

2 DEPUTY COMMISSIONER THOMPSON: I think my  
3 technical consultant would agree and I  
4 appreciate that. Mr. Montgomery is in here in  
5 the room with us. I will indicate the following  
6 future parole plans for the inmate. The inmate  
7 if paroled to California would like to stay with  
8 his son Eric in Fremont California. The inmate  
9 has indicated if he is deported to Mexico he  
10 wishes to stay on the family estate. And we  
11 have a letter of support dated November 16, 2005  
12 this was translated apparently. I will read  
13 that into the record. I will indicate we have  
14 numerous letters on behalf of the inmate from  
15 various family members. And I am not going to  
16 read each one into the record. I will state  
17 that this letter is from the inmate's father and  
18 his mother. We are aware that our son Alfonso  
19 Carranza is in prison for murder and involuntary  
20 homicide. We understand that those are vary  
21 serious offenses of the law. We understand that  
22 murder happened when he was young and immature.  
23 But now he is mature, we are appealing to you  
24 the authorities for your support and humanity.  
25 We are prepared to help the inmate economically  
26 since we have properties, which consist of a  
27 farm with land and cattle, which we are ready to

1 give him so he may live without any problems.  
2 Assets we have in Mexico specifically located in  
3 the municipality of Escobeto Mexico can be  
4 verified. And that letter I believe was dated  
5 in 2005. The inmate does have an INS hold. If  
6 however he is released to California he has a job  
7 offer and that is with Fremont Foreign Auto  
8 located in Fremont California. So as far as the  
9 letters as I have indicated I will not go  
10 through all the letters. I will indicate  
11 letters from Elia Mario, and Silvia Sergio Real,  
12 Carlos Carranza, Jose and Maria Carranza,  
13 Ricardo Carranza, Marisa Silva, Celeste Vargis,  
14 Linda Carranza, Theresa Carranza, Eduarda Porta,  
15 Geronemo Pueteres, Maribel Munoz Alonzo, Jessica  
16 Rio, Silvano Bueno, Javier Carranza, Jubilee  
17 Christioan Center, and there are letters of  
18 appreciation from VVGSQ, Center force  
19 incorporated, and Protestant Chapel ministries.  
20 Counsel in light of the fact I am not going to  
21 go through each one of the letters is there  
22 anything you wish to highlight at this time?

23 ATTORNEY SATRIS: The only thing I would  
24 like to highlight is the letter from his wife.  
25 It talks about their longstanding relationship  
26 and she basically has what I think Mr. Carranza,  
27 it may be in the paperwork, what he described to

1 me as an unconditional love for him. So that  
2 she is prepared to assist him in the transition  
3 back to Mexico which is where she is from. And  
4 she is prepared to go back.

5 PRESIDING COMMISSIONER LEE: It is my  
6 understanding that she is not in the state of  
7 California, is that correct?

8 INMATE CARRANZA: She is in Illinois.

9 PRESIDING COMMISSIONER LEE: She came up  
10 for your anniversary?

11 INMATE CARRANZA: Yes she comes two or  
12 three tiems a year. Also my daughter came like  
13 a month ago.

14 ATTORNEY SATRIS: And that the letters do  
15 reflect a large family he is from and the  
16 support that everybody is prepared to provide  
17 him or has provided him during his incarceration  
18 and continue to provide him if he is released.

19 PRESIDING COMMISSIONER LEE: It is very  
20 clear he has substantial family support at this  
21 time. All right at this point and time I will  
22 turn it over to questioning. Deputy  
23 Commissioner do you have any questions in  
24 regards to the matter?

25 DEPUTY COMMISSIONER THOMPSON: No thank you  
26 Commissioner I do not.

27 PRESIDING COMMISSIONER LEE: All right, I

1 I will turn it over to Ms. Delagarza. Ms.

2 Delagarza do you have any questions of the  
3 inmate?

4 DEPUTY DISTRICT ATTORNEY DELAGARZA: I do  
5 have some questions. The first question is  
6 could the panel ask the inmate I read in one of  
7 the reports after the killing of Mr. Munoz the  
8 inmate was involved in another bar killing in  
9 Kansas, is that correct?

10 ATTORNEY SATRIS: Again we will rest on the  
11 record there. There was an acquittal. There  
12 were charges presented, he was involved in it  
13 Mr. Carranza do you want to speak to whether you  
14 see any kind of connection or relation between  
15 those charges and the offense you are in here  
16 for now?

17 INMATE CARRANZA: Yah it was related  
18 because I was living a life of destruction. A  
19 life out of control. I was involved with drugs  
20 and all of that stuff.

21 PRESIDING COMMISSIONER LEE: So you are  
22 indicating that there was another bar fight?  
23 Subsequent to this one?

24 INMATE CARRANZA: Yes.

25 PRESIDING COMMISSIONER LEE: And you were  
26 actually tried in another state but were  
27 acquitted, is that right?

1 INMATE CARRANZA: Yes.

2 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

3 DEPUTY DISTRICT ATTORNEY DELAGARZA: But he

4 did actually shoot and kill another individual

5 is that correct?

6 ATTORNEY SATRIS: I think we will rest on

7 the record. I mean it is an acquittal.

8 DEPUTY DISTRICT ATTORNEY DELAGARZA: Well

9 if he --

10 PRESIDING COMMISSIONER LEE: Ms. Delagarza

11 hold on. Hold on. Let me pose the question.

12 At this point and time is your client going to,

13 will the client answer the question from the

14 District Attorney?

15 ATTORNEY SATRIS: We are prepared. It was

16 a self-defense, a finding of an acquittal on

17 self-defense. Yes that is what he is talking

18 about.

19 DEPUTY DISTRICT ATTORNEY DELAGARZA: I am

20 going to ask that the inmate be allowed to

21 answer my questions not the attorney.

22 PRESIDING COMMISSIONER LEE: Ok, Ms.

23 Delagarza I will conduct the hearing. I know

24 exactly what you are saying. Let me handle

25 this. Mr. Satris is your client deciding to not

26 discuss what occurred in regards to the incident

27 after this hearing, I mean after this incident.



1 ATTORNEY SATRIS: He can answer that  
2 question, I already have but he can answer that  
3 question yes or no.

4 PRESIDING COMMISSIONER LEE: Go ahead sir.

5 The question was did you shoot someone in  
6 another bar incident?

7 INMATE CARRANZA: Yes.

8 PRESIDING COMMISSIONER LEE: All right next  
9 question.

10 DEPUTY DISTRICT ATTORNEY DELAGARZA: And  
11 the next question is on the date he was arrested  
12 in Colorado at that time besides the drugs was  
13 he also in possession of weapons?

14 PRESIDING COMMISSIONER LEE: You may  
15 answer?

16 ATTORNEY SATRIS: I would direct him not to  
17 answer that.

18 PRESIDING COMMISSIONER LEE: All right,  
19 next question.

20 DEPUTY DISTRICT ATTORNEY DELAGARZA:  
21 Besides himself, according to the report there  
22 was another individual by the name of Linda who  
23 was arrested with the inmate. Who was Linda?

24 ATTORNEY SATRIS: What are we talking about  
25 now?

26 DEPUTY DISTRICT ATTORNEY DELAGARZA: The  
27 Colorado arrest.

2 clarify now. You were arrested in Colorado was  
3 there another individual by the name of Lind  
4 with you and who is Linda?

5 ATTORNEY SATRIS: Yah I would direct him  
6 not to go into the details of a case on which he  
7 was acquitted.

8 PRESIDING COMMISSIONER LEE: All right next  
9 question.

10 DEPUTY DISTRICT ATTORNEY DELAGARZA: Let me  
11 object, he was not acquitted of that one. We  
12 are talking about Colorado where he was arrested  
13 for drug sales. There were two people actually  
14 arrested one of them was an individual by the  
15 name of Linda. This was a conviction not an  
16 acquittal.

17 PRESIDING COMMISSIONER LEE: Ms. Delagarza  
18 the inmate does not have to respond, I will  
19 allow him to respond. You can certainly argue  
20 this in your final statement. However at this  
21 point and time do you wish to respond in regards  
22 not the acquittal the shooting, but your arrest  
23 in Colorado?

24 ATTORNEY SATRIS: We rest on the record on  
25 that. That is in the material so I will direct  
26 him not to answer those questions that go beyond  
27 the record in this case before the board.

1           PRESIDING COMMISSIONER LEE: He has the  
2 right not to respond. I have no sanction  
3 authority here, obviously the District Attorney  
4 can make whatever statement she thinks is  
5 appropriate when it is her opportunity. Ms.  
6 Delagarza next question.

7           ATTORNEY SATRIS: Let me can I just the  
8 whatever argument given at the end has to based  
9 on the record before the board correct?

10          PRESIDING COMMISSIONER LEE: Correct.

11          ATTORNEY SATRIS: All right.

12          PRESIDING COMMISSIONER LEE: Go ahead.

13          DEPUTY DISTRICT ATTORNEY DELAGARZA: My  
14 next question is was the person Linda his  
15 daughter Linda Carranza or some other Linda?

16          ATTORNEY SATRIS: We have already made  
17 clear our position on going into any details  
18 beyond the record that is already before the  
19 board and that we are prepared for.

20          PRESIDING COMMISSIONER LEE: Next please.

21          DEPUTY DISTRICT ATTORNEY DELAGARZA: My  
22 next question is with respect to the  
23 psychological report in the psychological report  
24 and I am referring to page number six in that  
25 report. It says in the second full paragraph  
26 Mr. Carranza contends that he does not himself  
27 have a problem with substance abuse since he has

1 not used while incarcerated. He feels strongly  
2 he has put this problem behind him. And that he  
3 would be able to refuse any offer of drugs. Mr.  
4 Carranza does not participate in NA or AA  
5 programming, as he does not feel he has a  
6 substance abuse problem. When did the inmate  
7 start in AA, since according to the March of  
8 2006 it indicated he was not involved?

9 PRESIDING COMMISSIONER LEE: Do you  
10 understand the question sir? It appears you are  
11 not involved in NA or AA you may have been--

12 INMATE CARRANZA: That is correct.

13 PRESIDING COMMISSIONER LEE: There may have  
14 been references in the past that you were  
15 involved, when were you involved  
16 (indiscernible)?

17 INMATE CARRANZA: I was on the waiting list  
18 for two years. And I was involved, I started  
19 attending sometime in March.

20 DEPUTY DISTRICT ATTORNEY DELAGARZA: I am  
21 sorry I couldn't hear what he said.

22 PRESIDING COMMISSIONER LEE: Could you  
23 speak up please?

24 INMATE CARRANZA: I was on the waiting list  
25 for two years. And I started to attend AA  
26 sometime in March.

27 ATTORNEY SATRIS: After your meeting with

1 the Doctor here, correct?

2 INMATE CARRANZA: Yes.

3 PRESIDING COMMISSIONER LEE: All right, so  
4 that was the first time?

5 INMATE CARRANZA: Yes.

6 PRESIDING COMMISSIONER LEE: Ms. Delagarza?

7 DEPUTY DISTRICT ATTORNEY DELAGARZA: I have  
8 no other questions.

9 PRESIDING COMMISSIONER LEE: At this time  
10 Mr. Satris do you have any questions of your  
11 client?

12 ATTORNEY SATRIS: Yes let me pick up where  
13 we were leaving off there about addictions and  
14 so forth. Because it was mentioned earlier that  
15 you have a degenerative disc disease, that  
16 causes you some pain does it?

17 INMATE CARRANZA: In my back?

18 ATTORNEY SATRIS: Yes.

19 INMATE CARRANZA: Yes I had an MRI done.

20 ATTORNEY SATRIS: And you have been offered  
21 medication for that?

22 INMATE CARRANZA: Yes.

23 ATTORNEY SATRIS: And what is your position  
24 on that?

25 INMATE CARRANZA: I didn't want to take any  
26 medication that would get me addicted to a  
27 prescribed medication.

1 ATTORNEY SATRIS: So have you basically  
2 ignored the pain rather than take that  
3 medication?

4 INMATE CARRANZA: Yes.

5 ATTORNEY SATRIS: Now you talked a bit  
6 about your work for the past number of years for  
7 Center Force and the counseling of other inmates  
8 in connection with that.

9 INMATE CARRANZA: With drugs?

10 ATTORNEY SATRIS: With drugs and just  
11 generally HIV and so forth. Do you find meaning  
12 in your work?

13 INMATE CARRANZA: Oh, yes I do. I feel  
14 like I give back something to society because  
15 my counseling this guys about the risk of  
16 getting infected with HIV or other diseases. I  
17 have numerous occasions when this guys come back  
18 with results that they have HIV or they have  
19 hepatitis or some other kind of disease and they  
20 come talk to me. And I counsel them and I refer  
21 them to the doctor. Because a lot of these guys  
22 are Hispanics who don't understand English.

23 ATTORNEY SATRIS: Now is this work, do you  
24 have any interest or plans to pursue it if you  
25 are released?

26 INMATE CARRANZA: Yes I would like to  
27 continue that here, learning more and more. And

1 when I get out there in California or go back to  
2 Mexico. I would love to.

3 ATTORNEY SATRIS: Now you do have plans we  
4 have gone over in the event that you are not  
5 deported to Mexico. You do have plans in  
6 California?

7 INMATE CARRANZA: Yes.

8 ATTORNEY SATRIS: As have been gone over.

9 INMATE CARRANZA: Yes.

10 ATTORNEY SATRIS: It has been it was  
11 described here by the Deputy Commissioner that  
12 there was a quote on quote strong probability  
13 that you would be deported.

14 INMATE CARRANZA: Yes.

15 ATTORNEY SATRIS: Do you understand that  
16 the actual reality is that you will be deported?

17 INMATE CARRANZA: Yes I know that. I have  
18 been seeing hundreds of inmates over here in San  
19 Quentin they have INS holds and upon there  
20 release all of them have been deported. So --

21 ATTORNEY SATRIS: And in terms of  
22 continuing the counseling work you have done for  
23 Center force by going back to Mexico do you see  
24 a need for you to do that work? Or a need that  
25 could be served by you doing that work?

26 INMATE CARRANZA: Yes we actually the  
27 agency contacted somebody in Zacatecas an



1 agency. It is called Zacatecas (indiscernible)  
2 that means the state of Zacatecas against AIDS.  
3 And you know --

4 ATTORNEY SATRIS: So there is an  
5 organization already in your local and you have  
6 taken steps to connect up with them.

7 INMATE CARRANZA: Yes.

8 ATTORNEY SATRIS: And you were telling me  
9 at one point I think I have this straight about  
10 an incident regarding a cell move. Where you  
11 got into or there was some conflict with another  
12 inmate do you remember that? Could you just run  
13 that down to the board and explain your kind of  
14 reaction and how you handled it and felt about  
15 that.

16 INMATE CARRANZA: That was this cell move  
17 and this inmate got to move out of his cell. He  
18 got mad at me because he thought that I had  
19 something to do with the cell move. And he came  
20 to my house, I was doing some leatherwork  
21 because I have an in cell hobby, I work with  
22 leather. So anyway he came and he was real  
23 angry. And to make a long story short he  
24 attacked me. He hit me a few times over here--

25 ATTORNEY SATRIS: Just because we are on  
26 the record over here is along the shoulder--

27 INMATE CARRANZA: Along the shoulder and

1 over here. And yah and I was totally amazed and  
2 full of joy that I didn't respond. I did not  
3 even raise my hand. And I told him to god bless  
4 you when I say that he took off and I was just  
5 amazed and grateful and the same time because I  
6 wasn't planning on having that kind of  
7 experience. But in the same time I was grateful  
8 that I passed, that I passed the test without  
9 being prepared for it. And especially here in  
10 prison. And in this place there is some other  
11 nationals I get along with everybody. So I  
12 didn't told nothing to nobody this happened at  
13 night. And somehow they find out about it and  
14 they came to me and they wanted to hurt this guy  
15 because what he did, to them it was wrong. But  
16 I told them to leave him alone. That I you know  
17 that I forgave him and they still wanted to hurt  
18 him and again told them it was my decision and I  
19 said they should leave him alone. And he was,  
20 he has only one arm. And they went to talk to  
21 him and anyway they didn't hurt him so he came  
22 back and apologized to me. We hug each other  
23 and we pray and that was it. And I will you  
24 know I will I would have liked, if I would have  
25 handled the situation the same way you know for  
26 what I did in 1985 to the victims. And again I  
27 say to the victim's family I am really sorry for

EXHIBIT B

CALIFORNIA CODE OF REGULATIONS TITLE 15, SECTION 2400-2411, PAGES 73-81

1 what I did. I pray to god one day they will  
2 find it in their hearts to forgive me. Because  
3 I have family and I would get hurt if somebody  
4 do something to them. So I pray for them and I  
5 understand they might hate me and they have all  
6 the reason, the right to do that. But I pray  
7 for them I hope they will forgive me one day.  
8 You know what I did was wrong and I am  
9 responsible. And I am guilty.

10 PRESIDING COMMISSIONER LEE: Any further  
11 questions?

12 ATTORNEY SATRIS: No further questions  
13 thank you.

14 PRESIDING COMMISSIONER LEE: All right it  
15 is time we are going to go to statements.

16 DEPUTY COMMISSIONER THOMPSON: It might be  
17 better to change the tape.

18 PRESIDING COMMISSIONER LEE: We are going  
19 to take a brief recess while we change tapes.

20 DEPUTY COMMISSIONER THOMPSON: We are back  
21 on the record this will be side two tape one of  
22 the Carranza hearing. And if you wish to  
23 proceed with statements you now have tape.

24 PRESIDING COMMISSIONER LEE: Thank you all  
25 right at this point and time, we are waiting for  
26 one officer and we can begin. At this time we  
27 are ready to begin with statements Ms. Delagarza

1 you may be heard.

2 Los Angeles County opposes granting of a  
3 parole date for this inmate beginning with the  
4 inmate's criminality. He had an escalating  
5 pattern of criminality he had convictions for  
6 both drugs, alcohol, and in addition to that  
7 possession of guns. So we have this escalating  
8 pattern with respect to this inmate. All of  
9 them as I have indicated involving drugs,  
10 alcohol and guns. In respect to the life crime  
11 the inmate has failed to accept full  
12 responsibility when you look at the  
13 psychological report his claim is now a very  
14 self serving one, one of self defense. However  
15 if you read all the police reports including  
16 statements from victims including statements  
17 from witnesses who were in the bar it is clear  
18 that this was not an act of self-defense by the  
19 inmate. But it was actually a very cold  
20 calculated attempt on the part of this inmate to  
21 kill three individuals and he was successful as  
22 to one of them. He was involved initially in an  
23 argument with Raoul Munoz, Mr. Munoz left the  
24 bar, he came back to the bar and they again got  
25 into a verbal altercation. By everyone's  
26 statement it is clear that at some point it  
27 appeared that they shook hands and Mr. Munoz

1 left the bar along with his two brothers. As  
2 they were outside the inmate comes out and  
3 shoots all three of the individuals. There was  
4 no self-defense people were leaving the bar they  
5 were on their way home. According to the inmate  
6 he claims what he told the psychologist and what  
7 he told the counselors that he goes outside and  
8 he is accosted by the individuals. That was not  
9 what happened.. There was no self-defense. And  
10 he has failed to both accept responsibility for  
11 the crime and he has no insight into his  
12 criminality. If that is not bad enough after  
13 leaving, having committed this murder and having  
14 committed these assaults on two other  
15 individuals attempted murder as to both of them.  
16 The inmate goes into another state and he is  
17 again responsible for the death of another  
18 individual. What is important about that is  
19 that he is again in possession of a weapon and  
20 he is again responsible for the shooting death  
21 of another human being. A little bit over a  
22 year later the inmate is arrested in Colorado.  
23 And again as to that particular offense looking  
24 at the police reports it is clear that not only  
25 is he trafficking drugs at that point but again  
26 when he is arrested he is again in possession of  
27 weapons. So we have somebody who is very much

1 entrenched in violence and who is responsible  
2 for the death and also the wounding of several  
3 individuals before he is finally arrested and  
4 incarcerated. Since the inmate has been in  
5 prison with respect to some aspects of his  
6 prison time it has been positive. He has got no  
7 115's and only the one 128a. However that is  
8 the only thing positive you can say about him.  
9 He has gotten no vocations in the entire time he  
10 has been in prison. Yes he has been involved in  
11 some programs but even if you look at the  
12 programs with respect to the Center Force it has  
13 been since March of 2005 and with respect to the  
14 AA it has only been since March of 2006 so we  
15 have somebody who has very minimal self-help, no  
16 vocations, and we have somebody who has  
17 marginally and has only started doing positive  
18 programming in prison. It is very nice that he  
19 did the toy drive and he helped by selling  
20 things on ebay to victims. But with respect to  
21 his own programming the fact that he has done  
22 the little self-help and again with the AA and  
23 NA somebody that has been involved in drugs and  
24 alcohol as long as the inmate has. Somebody  
25 who's crimes according to his own statements  
26 were as a result of this involvement in drugs and  
27 alcohol this individual before we can be sure he



1 is safe to go into society we have to make sure  
2 that he is involved in programs that will make  
3 sure he will maintain his sobriety during the  
4 time he is released. As far as his parole plans  
5 are concerned while it is true he does have at  
6 least on paper parole plans for both United  
7 States and Mexico one of the troubling aspects  
8 of this inmate is that we know for sure he came  
9 into this country illegally, he had an arrest in  
10 San Diego for coming into the country illegally  
11 and what is very troubling is all of his family  
12 lives in the United States his wife, his  
13 daughter by his wife, his son by another  
14 individual, his parents, his brothers, his  
15 sisters all of them live in the United States.  
16 And with respect to the parole plans we would  
17 need to be sure that this inmate would not be  
18 coming back into the United States, should he be  
19 deported. And as everyone has said it is very  
20 clear that he will be deported. So I think that  
21 we have to make sure that whatever parole plans  
22 he has in Mexico are going to insure that he is  
23 not going to return to this country. Until he  
24 has a history of involvement in AA and NA until  
25 we know he has many years of involvement in  
26 self-help and until he accepts full  
27 responsibility for this crime we cannot be sure

1 he will not go out and continue in his  
2 criminality. We have an individual who has many  
3 victims. He is responsible for the death of two  
4 people; he is responsible for the wounding of  
5 two other individuals. Until we can be sure he  
6 would not continue to present a risk, he will  
7 continue to be a threat to society. We are  
8 asking for a five-year denial to make sure he  
9 has enough time to get the self-help he needs.  
10 And to also have sufficient years of involvement  
11 in AA and NA before he is released. Thank you.

12 PRESIDING COMMISSIONER LEE: Thank you Ms.  
13 Delagarza for your comments. Next we will go to  
14 Mr. Satris.

15 ATTORNEY SATRIS: Thank you. Before I  
16 close making the points I would like to make.  
17 Favoring the parole of Mr. Carranza let me  
18 correct a couple of miss statements in the  
19 closing by the Deputy District Attorney. Again  
20 we accept the findings of the court and are not  
21 here to relitigate. Mr. Carranza over and over  
22 has expresses in that exact sentiment in his  
23 acceptance of responsibility for the crimes that  
24 he was convicted of. That includes murder. As  
25 he has said he shot to soon and he shot for to  
26 long. We don't have two counts of attempted  
27 murder in this case, as the District Attorney

1 characterized it. We have a finding of  
2 attempted voluntary manslaughter and that is  
3 critical because that shows that this isn't the  
4 kind of cold calculated attempt to kill three  
5 people that the District Attorney is now trying  
6 to promote in a retrial of the case. The  
7 manslaughter finding or attempted manslaughter  
8 does indicate apparent acceptance either a  
9 provocation or unreasonable or honest or  
10 unreasonable belief in the need for self-  
11 defense. And there is substantial evidence of  
12 course in the record that would support this.  
13 So the kind of one-sided distortion of the  
14 factual scenario in this case is not persuasive.  
15 And we are not going to respond in kind by not  
16 pointing out the evidence that is different than  
17 the evidence reflecting the jury's verdict.  
18 There is no question that there was, and I would  
19 accept or use the language of the District  
20 Attorney of an entrenchment in that kind of  
21 violent world of drugs and guns. And we know  
22 what happens when you have drugs and guns,  
23 violence results. That is why Mr. Carranza I  
24 think has characterized his arrest in this case  
25 as a kind of rescue. This is actually a  
26 situation where the criminal justice system  
27 worked as it is designed to and as we always

1 hope it will. It stops the person in their  
2 tracks and sits them down and gives them time  
3 and plenty of time to reflect upon their actions  
4 and what they have done and hopefully work out a  
5 change from that, that I will go on to later.  
6 But while I am on the subject on the correct  
7 statements from the record and I will just speak  
8 to the notions of the vocations now. In terms  
9 of Mr. Carranza has a job, resources waiting for  
10 him in Mexico. He will go to work immediately.  
11 There is not a vocation available in the CDC  
12 system that is going to facilitate or help him  
13 in that regard. The interesting thing is the  
14 job he has is probably the best kind of  
15 vocational training that he could receive. He  
16 actually does have a job offer in this country  
17 as a result to that work available to him. And  
18 as he stated this is an activity of beneficial  
19 use. He can put to for the betterment of  
20 society when he is released in Mexico, whether  
21 that would lead to an actual paying job or not  
22 is really beside the point from his point of  
23 view. He has got the means for work and he has  
24 got a very constructive positive activity to do.  
25 And that work with Center Force has not been  
26 just since March of 2005. That has been for  
27 four years. And as he stated he is going to

1 continue in that work. All right so I would ask  
2 the board to do what it indicated in the vary  
3 outset of this hearing of what it was going to  
4 do. Which is to consider Mr. Carranza for  
5 parole in accordance with Penal Code Section  
6 3041 and its own rules and regulations. That  
7 Penal Code Section provides that the board  
8 should normally grant a prisoner or set a parole  
9 date for a prisoner at his first parole hearing.  
10 This is Mr. Carranza's first parole hearing. It  
11 is even more appropriate in his case to do so  
12 than perhaps some other cases because of the  
13 length of time he has served to this point. So  
14 you can see the long post conviction record that  
15 he has. He was committed in 1989 and served  
16 time for the consecutive sentences for the  
17 multiple offenses that were involved in this  
18 case. The attempted voluntary manslaughter and  
19 the attempted murder before serving the time  
20 required to serve to become eligible for his  
21 life offense. And he has built up a remarkable  
22 record in that time. So I am going to now speak  
23 in terms of the board rules implementing the  
24 Penal Code Section to see if this is the kind of  
25 case for pursuant to the board's rules it should  
26 set a parole date for Mr. Carranza. We have the  
27 commitment offense certainly that weights the



1 other way. Under the boards rules in terms of  
2 multiple victims to start with that is a factor  
3 that leans towards a finding of unsuitability  
4 for parole. But what is important is that is  
5 only if that offense shows he presents a  
6 continuing danger at this point. Because we are  
7 talking about present dangerousness when we are  
8 talking about suitability for parole. The  
9 record makes it very plain in this case that  
10 kind of entrenched criminality at that time was  
11 a the product of a kind of destructive lifestyle  
12 he was living involving drugs and weapons.  
13 Those factors that underlie that behavior have  
14 been addressed and dealt with and he has adopted  
15 a set of values and a way of living that is  
16 totally contrary to that. And I think is best  
17 exemplified by that incident with the cell move.  
18 Where he gets attacked and does not respond  
19 impulsively, angrily or in any negative way.  
20 And that is the way I think the board is  
21 reasonably assured that Mr. Carranza is going to  
22 live out the rest of his life. So addressing  
23 the suitability factors you do see that they all  
24 apply here. Starting with the signs of remorse.  
25 Mr. Carranza has expressed it directly to the  
26 board today but you will also see in both the  
27 counselors report and the psychiatric report

1 that he has expressed his sorrow and remorse for  
2 his criminal acts that resulted in such a loss.  
3 As he said though you know those are words. And  
4 the way he has demonstrated his remorse is by  
5 changing his actions and doing whatever he can  
6 at this point to make up for that crime by  
7 positive constructive activity including  
8 changing his own life and helping others in ways  
9 that better society rather than to detract from  
10 it. In terms of pre offense factors. You have  
11 no juvenile record, the next factor in the  
12 suitability factors. You have really a life  
13 that Mr. Carranza led that was a conforming  
14 prosocial life until he did come to California,  
15 he did involve himself in drugs that vary  
16 clearly led to his criminal conduct. In that  
17 regard the next factor is lack of criminal  
18 history. He lacks any significant history of  
19 violent crime. And what you have is no violent  
20 criminality outside of this offense. This is  
21 his single act of criminal violence. Then you  
22 go to the next factor, which is a stable social  
23 history. Has the prisoner experienced  
24 reasonably stable relationships with others.  
25 And yes you can see he has. He has had a very  
26 stable upbringing and social background. There  
27 is no childhood maladjustment



1 psychiatric report. You see the large prosocial  
2 intact family out of which Mr. Carranza comes  
3 from. His parents are literally still living on  
4 the same property in Mexico where they come  
5 from. There is no family history of mental  
6 illness, criminality or alcohol abuse. He knew  
7 his wife from childhood. He has been married  
8 since she was age 16 and he was age 17. He has  
9 maintained that relationship throughout. He has  
10 maintained relationships with his children, he  
11 has maintained relationships with all of his  
12 family. That is a factor that supports a  
13 finding of suitability here. You have then the  
14 next factor you look at. Institutional behavior  
15 has institution activities indicated an enhanced  
16 ability to function within the law upon release.  
17 And you see that first of all with the behavior  
18 of the remarkable record he has of being  
19 disciplinary free. No CDC 115's rule  
20 violations. You have him obtaining his  
21 education getting his equivalency high school  
22 degree as well as the English as a second  
23 language. And you can see actually great  
24 progress in the TABE results there. And they  
25 you have the therapy and self-help programming.  
26 And I think you can see his work, let me just  
27 say work in addition to the education he has

1 been getting exceptional work reports from the  
2 beginning. You see in his most recent work it  
3 is an aspect of self-help programming too. He's  
4 acting as a counselor on behalf of other  
5 prisoners concerning HIV and concerning related  
6 dangerous activities including drug use, you  
7 have his religious activities that he has been  
8 laudated for again. And being an active in the  
9 ministry and counseling there. You have  
10 positive extra curricular activities. Lets say  
11 in terms of the leather craftsman you have a  
12 showing that he has been able to address on his  
13 own through his Christian principles and embrace  
14 a positive lifestyle. Putting away use of  
15 drugs, it is unfortunate that he had to wait for  
16 two years to begin the AA and NA program. It is  
17 understandable. I think the District Attorney  
18 does make a point that's this board should  
19 consider in terms of ensuring that, that becomes  
20 kind of an entrenched process of its own that AA  
21 treatment continue. Mr. Carranza says he is  
22 going to continue it. You can set a parole date  
23 for him, it is going to be in the future that is  
24 the idea, give prisoners a predictable time when  
25 they will be released. That is the design of  
26 Penal Code Section 3041. Make a condition of  
27 that parole grant that he continue in his AA

1 treatment, that is a basis for parole recision  
2 then if he does not. That is the best way to  
3 handle that issue of insuring that he continues  
4 with that programming, not by withholding a date  
5 from him so that you would never know when you  
6 were going to be released. Ok so then we go to  
7 the next and last factor and we see it applies  
8 as well. So that there is a unanimous showing  
9 of applicability of the suitability factors.  
10 And that is understanding and plans for the  
11 future. Has he developed realistic plans or  
12 skills that can be put to use upon release. You  
13 see he has done both in that case. He has his  
14 plans for what is most realistic, really the  
15 only realistic plan for the future is he is  
16 going to be deported to Mexico. And he is fully  
17 prepared for that. He has his wife ready to  
18 move as need be back there. I think that does  
19 address the concern somewhat expressed by the  
20 District Attorney that he is going to go down  
21 there an illegally cross the border. Again he  
22 is going to have his parents that are down there  
23 as well as his wife.

24 DEPUTY DISTRICT ATTORNEY DELAGARZA: Excuse  
25 me according to the parent's letter they live in  
26 the United States.

27 PRESIDING COMMISSIONER LEE: THE

1 read from Mexico indicates that their property  
2 is in Mexico and that is where they have a place  
3 for him to stay.

4 ATTORNEY SATRIS: Well let me clarify--

5 DEPUTY DISTRICT ATTORNEY DELAGARZA: It  
6 says we are living permanently in the United  
7 States, page two first line.

8 PRESIDING COMMISSIONER LEE: I understand  
9 counsel but the question is where will he stay  
10 and what will he do in Mexico. I don't care,  
11 there is no indication that he has to live with  
12 parents. The letter clearly indicates that he  
13 would be living in Mexico and that is where he  
14 would be working. Am I correct Mr. Satris?

15 ATTORNEY SATRIS: Say that again I was  
16 conferring with my client.

17 PRESIDING COMMISSIONER LEE: The letter  
18 that I read that was translated is that the  
19 inmate, this is the letter dated November 16,  
20 2005, the inmate will live in Mexico on their  
21 property is that correct?

22 ATTORNEY SATRIS: Right.

23 PRESIDING COMMISSIONER LEE: Ok.

24 ATTORNEY SATRIS: And they have substantial  
25 ties there. They are there right now. Whether  
26 there--

27 PRESIDING COMMISSIONER LEE: Whether they

1 go back and forth is irrelevant to me.  
2 ATTORNEY SATRIS: Ok.

3 PRESIDING COMMISSIONER LEE: Ok.  
4 ATTORNEY SATRIS: So let me move on then.

5 Let me talk for a minute about the Mexico plans  
6 and the likelihood of deportation. What is  
7 called the strong probability. What it is, is as  
8 certain a likelihood as can be and that is based  
9 on the law. Which provides that not only  
10 because Mr. Carranza was an undocumented alien  
11 at the time, which makes him deportable. He is  
12 deportable now as well because of the crime,  
13 which is part of the new legislation that was  
14 passed a few years back. And that is a very  
15 strict law that makes him first of all removable  
16 and requires mandatory detention during the  
17 course of the removal proceedings and that is  
18 under Eight USC Section 1226c. So there is no  
19 discretion by California not to offer Mr.  
20 Carranza to authorities. There is no discretion  
21 of federal authorities not to come and pick him  
22 up. And while immigration law provides for  
23 various acceptance's in certain circumstances  
24 depending on the status of the wife and so  
25 forth, none of those exceptions apply under the  
26 provision where their inmate has committed, I  
27 forget how they call it exactly.



1 aggravated violent felony under 110143a. That  
2 makes him ineligible for cancellation of removal  
3 for voluntary departure or for political asylum.  
4 His only possible remedy under the law to avoid  
5 deportation is if it would involve torture if he  
6 went back there. He makes no claim, there is no  
7 claim of that. It is as guaranteed as can be  
8 that he is going to be deported. Now that is  
9 important not only for parole plans but for you  
10 to assess under the statute and regulations  
11 whether in fact the setting of a parole date for  
12 Mr. Carranza would unreasonably threaten public  
13 safety. And it would not. The very, very, very  
14 simple reason that he is never going to be  
15 setting foot in California again. He goes  
16 straight from confinement here to confinement  
17 under federal authorities, no bail, into  
18 removal. And the law further provides that once  
19 he is released or deported to Mexico there is no  
20 way for him to legally come back to the United  
21 States, he is permanently excluded. And if he  
22 came back illegally as the concern was expressed  
23 he would be subject to felony criminal  
24 prosecution and exposed to a federal prison  
25 sentence of up to 20 years. He is not going to  
26 risk that. I think you can be reasonably  
27 satisfied on that point.

1 to find that he would present and unreasonable  
2 risk rather, now I know the victims kin here  
3 will be speaking after me. I know that is  
4 pursuant to the board's rules that you were  
5 explaining off the record to them before and I  
6 would lodge an objection just in terms of due  
7 process because of notice but I know that is  
8 futile. The board is going to follow its rules  
9 in that regard but let me just say in closing as  
10 Mr. Carranza said he has totally changed and  
11 reformed himself. As we exactly hope that  
12 arrest and incarceration will do. And I for one  
13 was impressed with the remarks that were made at  
14 the time of sentencing by the victim's kin at  
15 that time. And in fact it was by one that was  
16 here now with the sister Cecelia who said she  
17 appreciated that justice has been done, I am  
18 paraphrasing a little bit there. I hope in the  
19 years to come he, Mr. Carranza, will reconsider  
20 his acts. And that hope expressed with great  
21 restraint by the victims kin has been fulfilled  
22 in this case. The board should recognize change  
23 and rehabilitation when it sees it. When it is  
24 across the table from it. And hold up that as a  
25 example of what we want prisoners to do in terms  
26 of reform and reformation. And set a parole  
27 date on that basis so that the law is followed.



1 Thank you.

2 PRESIDING COMMISSIONER LEE: Thank you Mr.  
3 Satris. At this time I am going to turn to the  
4 victims next of kin. And would you please  
5 indicate before the statement, your name again  
6 spell your last name and your relationship. And  
7 I will ask you to limit your self in regards to  
8 how the incident has impacted your lives and  
9 those in your family. And the reason being is  
10 that sometimes information comes out from  
11 another source, I heard about this and I heard  
12 about that and it becomes problematic because we  
13 don't have any foundation for that. So  
14 nonetheless feel free to say whatever you need  
15 to say and I will do what I need to do in  
16 regards to giving it weight. So go ahead.

17 MR. MUNOZ: My name is Louis Munoz I am the  
18 brother of the victim and I am a victim myself  
19 too. Louis, L-O-U-I-S, Munoz, M-U-N-O-Z. On  
20 behalf of the Munoz family we would like to ask  
21 the parole board that the inmate Alfonso  
22 Carranza complete his sentence in full. The  
23 pain and damage he caused the family Munoz, he  
24 literally killed my brother (indiscernible). He  
25 attempted to kill my two other brothers Raoul  
26 Munoz and Pedro Munoz. We don't think that he  
27 is ready for society or he has been

1 rehabilitated to be in society either in Mexico  
2 or in the US. We think that he is a threat to  
3 society. He is not ready to be a productive man  
4 in society. When people are in jail they  
5 always want to get out and they will say  
6 whatever. A person who is used to doing crime  
7 all of his life (indiscernible) what is the  
8 chances he will not commit crime again. What  
9 are the chances he will not kill another human  
10 being again. When they do it once they can do  
11 it again. And the other (indiscernible) he not  
12 only killed my brother he destroyed part of my  
13 family. He destroyed part of the Munoz family.  
14 Since my brother (indiscernible) died we never  
15 been the same. After the murder of my brother I  
16 was only 15 years old when he was murdered. I  
17 was in deep depression for a long time because  
18 my brother was my best friend. We grew up  
19 together. That night when he left that Friday  
20 night we were supposed to go to Knotts Berry  
21 Farm the next day, I never seen my brother  
22 again. My brother died. It has been a long  
23 time, it might seem like a long time but it  
24 takes sometimes longer for a person to  
25 rehabilitate and get back to society. Like I  
26 mentioned earlier he did not only take my  
27 brothers life but he did it with no remorse

1    whatsoever.    When we were in trial pro bono  
2    every time we go into the courthouse he will  
3    come out and he will laugh at us.    I was there,  
4    I remember.    I don't think he stopped and  
5    thought (sic) he was taking a young kid's life.  
6    My brother was only 18 when he died.    He was  
7    only 18 years old and I would like the parole  
8    board to keep that in mind my brother would have  
9    been 38 years old right now.    37 or 38 years old  
10   so we believe he should stay in prison for the  
11   time until he finishes his sentence.   To pay to  
12   society for what he had done, to be sure that  
13   when he gets out of this prison he is not a  
14   threat to another person.   Not only worrying  
15   about my family, what has happened to my family  
16   was already done.   I am worrying about another  
17   human being, being in danger again by a person  
18   that had already killed.   And that god knows  
19   what he feels.   I know what I feel.   The pain of  
20   my brother still feels like it happened  
21   yesterday.   Every time I get up in the morning I  
22   think of my brother.   And all I am asking for is  
23   for him to pay for the crime that he committed  
24   to society.   Thank you very much.

25           PRESIDING COMMISSIONER LEE:   Thank you sir.

26   Ma'am.

27           MS. O'REILLY:   Ladies and gentlemen I am

1 Cecelia O'Reilly, I am the sister of Juan, Jose,  
2 Raoul, and Pedro Munoz. My brothers that were  
3 victims of the crime at the hands of Mr. Alfonso  
4 Carranza. Years has passed by that is true but  
5 we have never forgotten his reaction. He tried  
6 to take three lives away in the matter of  
7 seconds. And he did, he killed my younger  
8 brother when he was in the prime of his life.  
9 When he was only 18 years old. Without knowing  
10 him, without having a word with him before that  
11 night. He wounded my older two brothers. He  
12 left my other brothers hurt, one dead and the  
13 other one bleeding. On top of that not only  
14 happy with that he chased my older brother, he  
15 had a bullet in his neck, and he run after him  
16 because he tried to finish his work. He tried  
17 to take his life away. He killed the youngest  
18 and he gived (sic) scars to my family forever.  
19 Because we have never been the same since then.  
20 We always have that empty spot when the family  
21 get together his seat is always empty. My  
22 brother he could have been right now 37 years  
23 old. He could have had a family, he could have  
24 been married but no he is not there anymore.  
25 Mr. Carranza showed to my family the Munoz  
26 family, the pain and suffering of loosing  
27 someone in death. He showed to my family what a

1 person can be what a human being can be capable  
2 to do to hurt others. He really give us a lot  
3 of thought. We don't hate him. We hate his  
4 actions what he did to us. And he did it once,  
5 he did it twice he can do it again. The only  
6 thing I am asking is for him to finish, to do  
7 his time for some reason the state given him 25  
8 years let him finish his time until the last  
9 day. Why because he has to learn his lesson.  
10 He has to learn that before he grab a gun again  
11 he has to think twice. You cannot take peoples  
12 lives away like drinking a soda or changing  
13 shoes. You cant. No one has the right to take  
14 no ones life. And I believe Mr. Carranza has to  
15 learn. Because could you imagine if someone  
16 would have taken one of your kids lives away.  
17 Would you let them go or let them leave before  
18 the time? I don't think so. Anyone in this  
19 room wouldn't do that. You would agree with me  
20 and you would ask the same thing. I am opposed  
21 to his parole. That is why I took my time.  
22 That is why I am here. I just want to make sure  
23 you guys make the right decision. It is not  
24 easy to believe someone with such a history of  
25 violence and crime and let them go outside.  
26 Because if he does it again before the time it  
27 is going to be on your conscious and it is a big

1 responsibility on your shoulders. Before you  
2 make any decision I please ask you to make sure  
3 you are doing the right thing. Because if  
4 happened to my family it could happen to you  
5 too. So please of course I am glad he is doing  
6 changes and I didn't mention it to him but I  
7 remember. 17 years ago when I talked to him. I  
8 was happy that justice was done. They give him  
9 25 years that is justice, let him finish the 25  
10 years (indiscernible) before the time. And I am  
11 glad that he wants to make changes. But  
12 everybody wants to make points when they want to  
13 leave before. My brother is not alive. He  
14 feels the son everyday on his face. My brother  
15 is not here anymore. We don't hate him we just  
16 want him to pay for what he did. And after the  
17 25 years if it is ok if he wants to go on with  
18 his life, I mean everybody has a right to change  
19 but not before the time. I really thank you for  
20 all this but I don't think Mr. Carranza is ready  
21 to reintegrate to society. I don't think he, I  
22 think he needs to really try hard and I want him  
23 to finish to the last day of the sentence.

24 PRESIDING COMMISSIONER LEE: Thank you for  
25 your comments. At this time we are going to  
26 recess and deliberate and we will call everyone  
27 back once we have made our decision, thank you

1 very much.

2

R E C E S S

3

--oOo--

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27



1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 DEPUTY COMMISSIONER THOMPSON: We are back  
4 on record.

5 PRESIDING COMMISSIONER LEE: Ms. Delagarza  
6 we are about to begin. Apparently you have been  
7 abandoned Ms. Delagarza.

8 DEPUTY DISTRICT ATTORNEY DELAGARZA: In  
9 what way?

10 PRESIDING COMMISSIONER LEE: Oh I see empty  
11 chairs now.

12 DEPUTY DISTRICT ATTORNEY DELAGARZA: Oh  
13 they are standing right here.

14 PRESIDING COMMISSIONER LEE: Oh ok we are  
15 waiting for the victims next of kin, they are in  
16 the restroom.

17 ATTORNEY SATRIS: We are off the record now  
18 or are we on?

19 DEPUTY COMMISSIONER THOMPSON: If you want  
20 to be you can be.

21 ATTORNEY SATRIS: No I don't want to be.

22 PRESIDING COMMISSIONER LEE: Can we go off  
23 the record Deputy Commissioner?

24 DEPUTY COMMISSIONER THOMPSON: We are back  
25 on the record.

26 PRESIDING COMMISSIONER LEE: All right I

27 ALFONSO CARRANZA E-30803 DECISION PAGE 1 4/19/2006

1 think everybody has returned at this point and  
2 time. Ms. Delagarza is there. The panel has  
3 reviewed all information received from the  
4 public and relied on the following circumstances  
5 in concluding the prisoner is not suitable for  
6 parole and would pose an unreasonable risk to  
7 society or a threat to public safety if released  
8 from prison. Multiple victims were attacked,  
9 injured and one killed during the offense. The  
10 offense was carried out in a dispassionate and  
11 calculated manner. The offense was carried out  
12 in a manner, which demonstrates an exceptional  
13 callous disregard for human suffering. The  
14 motive of the crime was inexplicable or very  
15 trivial in relationship to the offense. The sad  
16 part of my position is that I truly do not know  
17 what occurred out on the street nor does the  
18 Deputy Commissioner. We are only privy to what  
19 is submitted before us. The inmate's version is  
20 totally at odds with the information we have  
21 received in our packets. The information  
22 apparently in the packets seem to indicate at  
23 trial the witnesses did indicate there was an  
24 ongoing dispute that had apparently on at least  
25 two occasions an attempt to solve this  
26 particular dispute in fact it seems to indicate  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 2 4/19/2006

1 there was a point and time where both sides  
2 shook hands. But that is where we come to or I  
3 must take as the facts in this case. And  
4 apparently the inmate began shooting for no  
5 apparent reason. There is no indication that  
6 the individuals were aggressors. The  
7 information seems to indicate that one  
8 individual was struck in the neck, two other  
9 individuals were shot at, and one died. The  
10 offense itself is of sufficient severity for the  
11 denial. And for that reason the inmate is being  
12 denied. The inmate is also being denied because  
13 he has an escalating pattern of criminal  
14 conduct. It clearly indicates that not only  
15 being a user the inmate went into drug selling  
16 and unfortunately even after the offense  
17 continued on in a lifestyle that he has  
18 indicated himself that was leading him to  
19 destruction. One suspects this is a continued  
20 lifestyle not only in drugs and alcohol but also  
21 in violence. There was information in regards  
22 to activities after this offense prior to his  
23 arrest. The inmate has failed at previous  
24 grants of probation and cannot be counted upon  
25 to avoid criminality. Sir it is unfortunate  
26 that in both instances where people have lost  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 3 4/19/2006

1 their lives. One which you were acquitted they  
2 were apparently in bars. Which leads to, I mean  
3 which can infer there was alcohol use but also  
4 your admitted usage in regards to cocaine. You  
5 had an opportunity under driving under the  
6 influence in 1980 or excuse me in 1980 as well  
7 as in 1984 to get off both drugs and alcohol for  
8 whatever reasons you were unable to do so. And  
9 the reasons I am bringing that up is because of  
10 your lack of AA and NA participation which I  
11 will get to in just a minute. The inmate has  
12 failed to profit from societies previous  
13 attempts to correct his criminality such  
14 attempts include adult probation as well as your  
15 drug rehab. The prisoner has failed to  
16 sufficiently participate in self-help and  
17 therapy programming. Sir it is amazing to me in  
18 light of the situation you got yourself into,  
19 that you have not looked into AA and NA. The  
20 concerns expressed by the victims as well as the  
21 District Attorney are the same concerns of the  
22 panel. If a person chooses to stop taking  
23 alcohol or drugs that is obviously a good  
24 choice. No one is doubting that. But that also  
25 leads to the next step that you can readily  
26 chose to take drugs and alcohol again. One of  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 4 4/19/2006

1 the things about AA and NA is the basic precept  
2 that you need help from other people. That they  
3 would assist you outside. And I am hoping that  
4 you understand that at some point and time and  
5 receive that type of assistance. Now if you  
6 find another plan that you like better that is  
7 fine too. But we believe you need substance  
8 abuse programming. In regards to the inmate's  
9 parole plans I think they are sufficient.  
10 Obviously if you ever receive a date all parole  
11 plans go through what we call legal review.  
12 That means that an investigator will actually go  
13 and determine whether or not your plans are  
14 valid. And that is not because we don't believe  
15 you but we have had individuals lie to us in the  
16 past. So the concerns are unwarranted at this  
17 stage. I believe if you are foolish enough to  
18 lie to us that, that would be found out. But at  
19 this point and time you have a place to stay  
20 both in Mexico and the United States as well as  
21 job offers. However the panel notes opposition  
22 to your finding of suitability both from the  
23 District Attorney's office of Los Angeles County  
24 as well as the victim's next of kin. The panel  
25 makes the following findings. The prisoner  
26 needs therapy, programming and self-help in  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 5 4/19/2006

1 order to face, discuss, understand, and cope  
2 with stress in a non destructive manner as well  
3 as to get further insight into the crime. Until  
4 progress is made the prisoner continues to be  
5 unpredictable and a threat to others.  
6 Nonetheless the prisoner should be commended for  
7 the following.

8 DEPUTY COMMISSIONER THOMPSON: Well he did  
9 remain disciplinary free and he has been  
10 involved in counseling his peers and the Spanish  
11 speaking inmates as well as concerning both  
12 health issues and as well as adjustment issues.  
13 And he was noted and commended for that by the  
14 church group, I believe it is Jubilee Christian  
15 church. And he has a number of letters thanking  
16 him for his help and his cooperation in various  
17 events. I think they all show a willingness to  
18 be socialized and try to have empathy for other  
19 people. Which is to be commended and hopefully  
20 built on as a good foundation for future life or  
21 future contacts. And I think all in all he has  
22 made some educational efforts, he did get an  
23 equivalency degree. And he has taken English as  
24 a second language which makes him a good role  
25 model for Spanish speaking inmates who are  
26 trying to interface and interrelate to an  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 6 4/19/2006



1 English speaking, American English admittedly,  
2 but an English speaking community. And I think  
3 that is all commendable.

4 PRESIDING COMMISSIONER LEE: However these  
5 positive aspects of his behavior do not outweigh  
6 the factors of unsuitability. This is the  
7 inmate initial hearing. The District Attorney  
8 has indicated that five years is the appropriate  
9 denial time. I will indicate in a separate  
10 decision the hearing panel finds that the  
11 prisoner has been convicted of murder as well as  
12 attempted homicide and it is not reasonable to  
13 expect parole would be granted in the next four  
14 years. Sir I will tell you we had discussions  
15 about this particular area. But Mr. Satrio does  
16 indicate the obvious. You were not given the  
17 sentence of life without possibility of parole,  
18 you are attempting at this point and time to  
19 better yourself. I don't believe five years is  
20 appropriate. I think four years is the  
21 appropriate amount to get together the things  
22 that you do need to get together. Including AA,  
23 right now you have no track record at all. Some  
24 individuals as you know have been going to AA  
25 for 10 or 15 years. So that the concern that  
26 has been expressed by various individuals will  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 7 4/19/2006



1 be alleviated. That you will go back and end up  
2 doing the same things you did before and  
3 ultimately hurting others once again. I cannot  
4 emphasize or over emphasize to you the concern  
5 that the panel has but not even just the panel.  
6 The governor has a very similar concern and I  
7 suggest strongly that you reassess your position  
8 in regards to AA and NA. The reason for the  
9 multiple year denial is that multiple victims  
10 were attacked. It is very obvious that whatever  
11 occurred out there for what ever reasons you had  
12 no intentions of stopping. That you intended to  
13 deal with the three individuals out on the  
14 street. The offense was carried out in a  
15 manner, which demonstrates an exceptional  
16 callous disregard for human suffering. One of  
17 the individuals apparently was wounded and you  
18 continued on afterwards. The motive for the  
19 crime was very inexplicable very trivial in  
20 relation to the offense. In your own statement  
21 you overreacted and based upon what you  
22 indicated you observed. The prisoner apparently  
23 did not learn from his previous contacts with  
24 the criminal justice system. The prisoner has  
25 not completed necessary programming, which is  
26 essential to his adjustment and need additional  
27 ALFONSO CARRANZA E-30803 DECISION PAGE 8 4/19/2006

1 time to gain such programming. Specifically the  
2 inmate needs to participate in AA as well as NA  
3 or the equivalent. Therefore a longer period of  
4 observation and evaluation of the prisoner is  
5 required before the board should find that the  
6 prisoner is suitable for parole. The panel  
7 recommends the inmate remain disciplinary free,  
8 and if available participate in self-help and  
9 therapy programming. Deputy Commissioner?

10 DEPUTY COMMISSIONER THOMPSON: I wouldn't  
11 add anything to that except to wish you well.  
12 And that is it from my side.

13 PRESIDING COMMISSIONER LEE: Good luck sir.

14 INMATE CARRANZA: You do the same.

15 ATTORNEY SATRIS: Is there an automatic  
16 policy that he will see the psychologist four  
17 years down the road or do you need to make a  
18 special request for that.

19 PRESIDING COMMISSIONER LEE: You know what  
20 as you know we kind of bounce back and forth.  
21 But based upon your request I am assuming you  
22 wish for me to readmit an evaluation to the  
23 inmate and I will do that.

24 ATTORNEY SATRIS: Ok thank you.

25 PRESIDING COMMISSIONER LEE: All right at  
26 this time we are in recess.

27 ALFONSO CARRANZA E-30803 DECISION PAGE 9 4/19/2006

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23 PAROLE DENIED FOR FOUR YEARS

AUG 16 2006

24 THIS DECISION WILL BE FINAL ON: \_\_\_\_\_

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT

26 DATE, THE DECISION IS MODIFIED

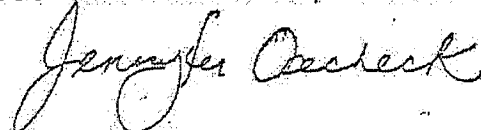
27 ALFONSO CARRANZA E-30803 DECISION PAGE 10 4/19/2006

CERTIFICATE AND  
DECLARATION OF TRANSCRIBER

I, JENNYFER OSECHECK, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 -90, and which recording was duly recorded at SAN QUENTIN STATE PRISON, SAN QUENTIN, CALIFORNIA, in the matter of the INITIAL PAROLE CONSIDERATION HEARING OF ALFONSO CARRANZA, CDC NO. E-30803, ON APRIL 19, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability..

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated May 29, 2006 at Sacramento, California.



JENNYFER OSECHECK  
TRANSCRIBER  
PETERS SHORTHAND REPORTING

EXHIBIT B

CALIFORNIA CODE OF REGULATIONS TITLE 15, SECTION 2400-2411, PAGES 73-81

(a) Multijurisdiction Prisoners Located in California. At all hearings at which a prisoner is being considered for parole, all multijurisdiction prisoners located in California shall have the rights specified in Sections 2245-2255.

(b) Multijurisdiction Prisoners Located Outside California. At all hearings at which a prisoner is being considered for parole, all multijurisdiction prisoners located outside California shall have the rights specified in Section 2367. The hearing shall be a telephone hearing.

(c) Record. The record of any parole consideration hearing shall be a tape recording. Until July 1, 1978, for all multijurisdiction ISL prisoners, the record shall be a written summary of the hearing prepared at the hearing by department staff. After July 1, 1978, the record shall be a tape recording.

#### HISTORY

1. Repealer of former Section 2373 and renumbering of Section 2374 to Section 2373 filed 6-11-79; effective thirtieth day thereafter (Register 79, No. 24). For history of former section, see Register 77, No. 44.

### Article 11. Parole Consideration Criteria and Guidelines for Murders Committed on or After November 8, 1978, and Specified Attempted First Degree Murders Committed on or After January 1, 1987

#### § 2400. Scope of Article.

The criteria and guidelines in this article apply to prisoners sentenced to prison for first and second degree murders committed on or after November 8, 1978 and attempted first degree murders where the perpetrator is sentenced for life under the provisions of Penal Code Section 664; effective January 1, 1987. The guidelines in this article are based on the public's expressed intent in amending Penal Code Sections 190 and 664 that a person convicted of first or second degree murder or attempted first degree murder, as specified should be incarcerated for an extended period of time.

The prisoner's minimum eligible parole date is established by statute. The amount of good conduct credit that a prisoner sentenced for first or second degree murder may earn to reduce the minimum eligible parole date is established by statute. (Penal Code Sections 2930-2933.) Life prisoners convicted of attempted first degree murder do not earn these credits; their minimum eligible parole date will be established pursuant to Penal Code Section 3046. The Department of Corrections will determine the minimum eligible parole date. The length of time a prisoner must serve prior to actual release on parole is determined by the board. The amount of postconviction credit a prisoner may earn to reduce the length of time prior to release on parole is determined by the board. This article implements Penal Code Section 3041 and concerns only the board's exercise of discretion in determining whether a prisoner is suitable for parole and, if so, when the prisoner should be released on parole.

The standards for the Department's action in reducing the minimum eligible parole date and the standards for the board's decision whether to reduce the period of confinement are different. The Department's decisions under Penal Code Sections 2930-2933 do not affect the board's decision concerning postconviction credit under these rules.

A prisoner committed for first or second degree murder or attempted first degree murder shall have his or her initial parole consideration hearing as provided in Section 2268. The prisoner will have documentation hearings as provided in Section 2269.1, but no specific amount of postconviction credit will be granted until the board has established a period of confinement.

for prisoners who committed murders on or before November 7, 1978 and these rules shall apply to prisoners who committed murders on or after November 8, 1978, and those who committed attempted murder on or after January 1, 1987. The suitability criteria are the same for both groups. The guidelines for establishing the periods of confinement are different because of the change in the minimum term for first degree murder and the change from a determinate to an indeterminate term for second degree murder and attempted first degree murder. The provisions for adjusting the terms for other offenses are also different because of the change in Penal Code Section 669 which permits courts to impose sentences consecutive to life terms (Stats. 1978, Ch. 579, eff. 1/1/79).

As used in this article, "life prisoner(s)" refers only to persons committed to prison for first or second degree murders committed on or after November 8, 1978, or to persons committed to prison for life for attempted murders committed on or after January 1, 1987.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 190, 664, 2930-2933, 3040, 3041, 3046 and 5076.1, Penal Code.

#### HISTORY

1. New Article 11 (Sections 2400-2411) filed 9-8-81; effective thirtieth day thereafter (Register 81, No. 37).
2. Amendment filed 6-14-84; effective thirtieth day thereafter (Register 84, No. 24).
3. Amendment filed 11-13-85; effective thirtieth day thereafter (Register 85, No. 46).
4. Amendment filed 1-20-88; operative 2-19-88 (Register 88, No. 5).

#### § 2401. General.

A life prisoner shall be considered for parole for the first time at the initial parole consideration hearing scheduled as provided in Section 2268. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2402(c). A parole date shall be set if the prisoner is found suitable for parole under Section 2402(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.

In setting the parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining the suitability for parole and the setting of parole dates, considering the number of victims of the crime for which the prisoner was sentenced and any other circumstances in mitigation or aggravation.

The terms in this article are guidelines only. The suggested terms serve as the starting point for the board's consideration of each case on an individual basis. The board may establish a term above or below the guidelines when warranted and reasons are stated on the record. A prisoner shall not be released before the minimum eligible parole date.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code.

#### HISTORY

1. Amendment filed 8-12-82; effective thirtieth day thereafter (Register 82, No. 33).
2. Amendment filed 11-13-85; effective thirtieth day thereafter (Register 85, No. 46).

#### § 2402. Determination of Suitability.

(a) General. The panel shall first determine whether the life prisoner is suitable for release on parole. Regardless of the length of time served, a life prisoner shall be found unsuitable for and denied parole if in the judgment of the panel the prisoner will pose an unreasonable risk of danger to society if released from prison.

(b) Information Considered. All relevant, reliable information available to the panel shall be considered in determining suitability for parole. Such information shall include the circumstances of the prisoner's social history, past and present mental state, past criminal history, including involvement in other criminal misconduct which is reliably documented, the base and other commitment offenses, including behavior before, dur-



CIRCUMSTANCES				
<b>FIRST DEGREE MURDER</b> Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force, e.g., shock producing heart attack, a crime partner actually did the killing.	<b>SECOND DEGREE MURDER</b> Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force, e.g., shock producing heart attack, a crime partner actually did the killing.			
	<b>THIRD DEGREE MURDER</b> Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force, e.g., shock producing heart attack, a crime partner actually did the killing.			
	<b>FOURTH DEGREE MURDER</b> Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force, e.g., shock producing heart attack, a crime partner actually did the killing.			
	<b>FIFTH DEGREE MURDER</b> Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force, e.g., shock producing heart attack, a crime partner actually did the killing.			
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				
<b>CIRCUMSTANCES</b> Victim was subjected to the prolonged infliction of physical pain through the use of methods, torture prior to act resulting in death.				

(c) Matrix of Base Terms for Second Degree Murder on or after November 8, 1978.

CIRCUMSTANCES			
<b>SECOND DEGREE MURDER</b> Penal Code § 189 in prison and does not include post conviction credit as provided in § 22800			
	<b>A. Indirect</b> Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force; e.g., shock producing heart attack; a crime partner actually did the killing.	<b>B. Direct or Victim Contribution</b> Death was almost immediate or resulted at least partially from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victims acting in defense of self or property.	<b>C. Severe Trauma</b> Death resulted from severe trauma inflicted with deadly intensity; e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.
<b>I. Participating Victim</b> Victim was accomplice or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred, e.g., crime partner, drug dealer, etc.	15-16-17	16-17-18	17-18-19
<b>II. Prior Relationship</b> Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If victim had a personal relationship but prisoner hired and/or paid a person to commit the offense, see Category IV.	16-17-18	17-18-19	18-19-20
<b>III. No Prior Relationship</b> Victim had little or no personal relationship with prisoner; or motivation for act resulting in death was related to the accomplishment of another crime, e.g., death of victim during robbery, rape, or other felony.	17-18-19	18-19-20	19-20-21
SUGGESTED BASE TERM			

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code.

#### HISTORY

1. Editorial correction filed 10-8-81; effective thirtieth day thereafter (Register 81, No. 41).
2. Amendment of subsection (a) filed 1-20-88; operative 2-19-88 (Register 88, No. 5).

#### § 2404. Circumstances in Aggravation of the Base Term.

(a) General. The panel may impose the upper base term or another term longer than the middle base term upon a finding of aggravating circumstances. Circumstances in aggravation of the base term include:

- (1) The crime involved some factors described in the appropriate matrix in a category higher on either axis than the categories chosen as most closely related to the crime;
- (2) The victim was particularly vulnerable;
- (3) The prisoner had a special relationship of confidence and trust with the victim, such as that of employee-employer;
- (4) The murder was committed to preclude testimony of potential or actual witnesses during a trial or criminal investigation;
- (5) The victim was intentionally killed because of his race, color, religion, nationality or country or origin;
- (6) During the commission of the crime the prisoner had a clear opportunity to cease but instead continued;



1. Amendment of subsection (b)(2)(B) filed 11-15-93, effective on that day thereafter (Register 85, No. 46).

#### § 2408. Circumstances in Aggravation of the Adjustment for Other Crimes.

Circumstances which may justify imposition of an adjustment for another crime higher than that suggested in Section 2407 include:

(a) Pattern of Violence. A victim was seriously injured or killed in the course of the other crime, or there was a substantial likelihood of serious injury or death resulting from the acts of the prisoner.

(b) Numerous Crimes. The other crime was one of a series of crimes which occurred during a single period of time, showing a pattern of similar conduct resulting in convictions, but not resulting in adjustments under Section 2407.

(c) Crimes of Increasing Seriousness. The prisoner has committed multiple crimes which indicate a significant pattern of increasingly serious criminal conduct.

(d) Independent Criminal Activity. The other crime and its objective were independent of the base crime or the other crime was committed at a different time and place, indicating a significant pattern of criminal behavior rather than a single period of aberrant behavior.

(e) Status. The prisoner was on probation or parole or was in custody or had escaped from custody when the crime was committed.

(f) Vulnerability. The victim was particularly vulnerable.

(g) Other. The other crime included any other circumstances in aggravation including those listed in the Sentencing Rules for the Superior Courts.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1170, 3040 and 3041, Penal Code; Sentencing Rules for the Superior Courts.

#### § 2409. Circumstances in Mitigation of the Adjustment for Other Crimes.

Circumstances which may justify imposition of an adjustment for another crime lower than that suggested in Section 2407, or which may justify no adjustment, include:

(a) Successful Completion of Probation or Parole. The prisoner's performance on probation or parole for the other crime was good, and the prisoner was free of criminal convictions for a reasonable period of time following completion of probation or parole.

(b) Insignificant Prior Record. The other crime indicates an insignificant pattern of prior criminal behavior. For example, the other crime is unrelated to the principal offense in time, in the kind of criminal conduct involved, or in the apparent motivation or cause of the criminal conduct.

(c) Probation. The prisoner was granted probation after conviction of the other crime.

(d) Other. The other crime included any other circumstances in mitigation including those listed in the Sentencing Rules for the Superior Courts.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 669, 1170, 3040 and 3041, Penal Code; Sentencing Rules for the Superior Courts.

#### § 2410. Postconviction Credit.

(a) General. Life prisoners may earn postconviction credit for each year spent in state prison from the date the life term starts. Prior to the initial parole consideration hearing life prisoners shall have documentation hearings as provided in Section 2269.1. At the documentation hearings, the board shall document the prisoner's performance, participation, behavior and other conduct as specified in subsection (c) of this section. Credit shall not be granted or denied at these hearings. The documentation shall be used by the panel which establishes a parole date to determine how much, if any, credit should be granted for the years served prior to the establishment of the parole date. Once a parole date is established, postconviction credit for time served since the last hearing shall be considered at the progress hearings scheduled as provided in Section 2269.

(b) Amount of Credit. Postconviction credit shall be granted to life prisoners in similar circumstances. The suggested amount of postconviction credit is zero to 4 months for each year served since the date the life term started excluding any time during which service of the life term is tolled.

The board may grant more or less than 4 months annual postconviction credit when the prisoner's performance, participation or behavior warrants such adjustment of credit. Less than 4 months credit may be granted if the prisoner fails to meet the general expectations set forth in Section 2410(c). More than 4 months credit may be granted if the prisoner demonstrates exceptional performance in a work assignment, exceptional participation in self-help or rehabilitative programs, or other exemplary conduct. If the panel grants more than 4 months of postconviction credit for any year, the case shall be reviewed as provided in Sections 2041-2043.

Provided, however, postconviction credits which would advance the parole release date to less than 180 days from the date of the hearing shall not be granted unless or until the parole review authority of the Governor is exercised pursuant to Penal Code section 3041.1.

(c) Criteria. In determining the amount of postconviction credit to be granted, the panel shall consider the following:

(1) Performance in Institutional Work Assignments. All life prisoners are presumed to work and to perform satisfactorily in work assignments (see CDC Rules 3040 and 3041). Lack of a work assignment shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of work assignments at the institution, the prisoner's custody status, and any other impediments to the prisoner's receiving work assignment.

(2) Participation in Self-Help and Rehabilitative Programs. All life prisoners are presumed to participate in programs for self development (refer to CDC Rules 3040 and 3041). Lack of program participation shall not necessarily prevent the granting of postconviction credit. The panel shall consider the nature and availability of programs at the institution, the prisoner's custody status, and any other impediments to the prisoner's participation in programs.

(3) Behavior in the Institutional Setting. All life prisoners are presumed to behave in a disciplinary-free manner, in accordance with state law and departmental regulations (refer to CDC Rules 3000-3021). However, a minor disciplinary offense shall not necessarily prevent the granting of postconviction credit.

(d) Credit Not Granted. No annual postconviction credit shall be granted in the case of any prisoner who commits serious (as defined in 15 CCR Section 3315) or numerous (more than three) infractions of departmental regulations, violates any state law, or engages in other conduct which could result in rescission of a parole date (see Section 2451) unless the panel finds evidence in mitigation and supports such finding with a statement of its reasoning.

Consistent unsatisfactory performance in work assignments, consistent failure to engage in program participation, or consistent overall negative behavior demonstrated by numerous minor disciplinary reports may, individually or cumulatively, justify the withholding of annual postconviction credit which otherwise could have been granted.

(e) Change in Parole Date. Once postconviction credit is granted for particular year of imprisonment, the credit shall be applied to any new term established after rescission or reconviction after a reversal.

NOTE: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3040 and 3041, Penal Code. *In re Stanley*, 54 Cal.App.3d 1030 (1976).

#### HISTORY

1. Amendment of subsection (d) and NOTE filed 8-15-91, operative 9-16-91 (Register 91, No. 51).
2. Amendment of subsections (b) and (c)(2) filed 12-20-93, operative 1-19-94 (Register 93, No. 52).

#### § 2411. Fixing a Parole Date.

(a) Total Period of Confinement. The terms established for the base crime and any adjustments shall be added together resulting in a total pe-

HABITUAL OFFENDERS Penal Code § 667.7 (in years and does not include postconviction credit as provided for in § 2410)	A. Crime included a single victim who did not require extensive medical treatment or prisoner was a passive participant or played a minor role in the crime.	B. Crime involved multiple victims or there were multiple injuries inflicted on the same or different victims.	C. Victim was tortured or suffered loss of bodily member or organ, or duration of offense was lengthy and prisoner had an opportunity to cease but instead continued.	D. Crime involved intricate planning or there exists facts which indicate the crime was committed in a manner which demonstrates an exceptionally callous disregard for human suffering.
I. Contributing Victim While not an accomplice, victim was involved in criminal activity which contributed to the motivation for the crime, i.e., drug dealer, sex offender, etc.	20-22-24	21-23-25	22-24-26	23-25-27
II. Prior relationship Victim was involved in a prior relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the crime.	21-23-25	22-24-26	23-25-27	24-26-28
III. Vulnerable victim Victim was particularly vulnerable due to age or physical or mental condition.	22-24-26	23-25-27	24-26-28	25-27-29
IV. Injury to victim Victim suffered fatal injury, required extensive medical treatment, or was permanently disabled as result of the crime.	23-25-27	24-26-28	25-27-29	26-28-30

SUGGESTED BASE TERMS

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 667.7 and 3041, Penal Code.

HISTORY

1. Amendment of section and Note filed 3-15-93; operative 4-14-93 (Register 93, No. 12).
2. Editorial correction adding subsection (b) and matrix (Register 93, No. 17).

§ 2424. Circumstances in Aggravation of the Base Term.

Circumstances in aggravation of the base term include but are not limited to:

(a) Criminal History.

(1) The current offense or offenses and the offenses underlying the prior prison terms are violent offenses as defined in Penal Code Section 667.5(c).

(2) The current offense or offenses and the offenses underlying the prior prison terms were committed within a relatively short time after release on parole.

(3) The prisoner has been convicted of other offenses during the periods between the commission of the current offense and the offenses underlying the prior prison terms.

(4) The prisoner has served more than two prior prison terms for offenses listed in Penal Code Section 667.7.

(b) Circumstances of Offenses.

(1) The current offense or offenses resulted in greater injury to one or more victims than is required for a finding under Penal Code Section 12022.7.

(2) The current offense or offenses or the offenses underlying the prior prison terms resulted in death to one or more victims.

(3) The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate the prisoner preys on victims who are particularly vulnerable, or who occupy a position of trust in relation to the prisoner.

§ 2429.1. Fixing a Parole Date.

The parole date shall be determined as provided in Section 2411.  
NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 669, 1203.2a and 2900, Penal Code.

Article 13. Parole Consideration Criteria and Guidelines for Sex Offenders Sentenced to Life Terms Under Penal Code Section 667.51

§ 2430. Scope of Article.

The criteria and guidelines in this article shall apply to prisoners sentenced to a term of 15 years to life under Penal Code Section 667.51. The guidelines in this article shall be construed as based on the public's expressed intent in adding Section 667.51 to the Penal Code that a person convicted of lewd or lascivious acts committed against a child under the age of 14, and who has served two or more prior prison terms for specified sex crimes should be incarcerated for an extended period of time.

The general statement in Section 2400 regarding the differences between the minimum eligible parole date and the parole release date shall be construed as if incorporated herein.

A person committed under Penal Code Section 667.51 shall have his initial parole consideration hearing in the thirteenth month prior to the minimum eligible parole date. The prisoner shall have documentation hearings as provided in Section 2269.1, but no specific amount of post-conviction credit shall be granted until the board has established a period of confinement.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 667.7, 2930-2933, 3040 and 3041, Penal Code.

HISTORY

1. New Article 13 (Sections 2430-2439.1) filed 6-14-84; effective thirtieth day thereafter (Register 84, No. 24).

§ 2431. General.

A sex offender shall be considered for parole for the first time at the initial parole consideration hearing. A parole date shall be denied if the prisoner is found unsuitable for parole under Section 2432(c). A parole date shall be set if the prisoner is found suitable for parole under Section 2432(d). A parole date set under this article shall be set in a manner that provides uniform terms for offenses of similar gravity and magnitude with respect to the threat to the public.

In setting a parole date the panel shall consider the Sentencing Rules for the Superior Courts. The panel shall also consider the criteria and guidelines set forth in this article for determining suitability for parole and the setting of parole dates, the circumstances of the crimes for which the prisoner was sentenced and any circumstances in aggravation or mitigation.

In setting a base period of confinement, the panel shall consider the circumstances of the current and prior offenses resulting in conviction under Penal Code Section 667.51.

The circumstances tending to show suitability and unsuitability, and the circumstances in aggravation and mitigation contained in this article shall be construed as guidelines only. The panel may make findings outside the guidelines when warranted in the individual case and reasons are stated on the record.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51, 3040 and 3041, Penal Code.

ment of the panel to find a prisoner unsuitable for and denied parole if in the judgment of the panel the prisoner poses an unreasonable risk of danger to society if released from prison.

(b) Information Considered. At all parole consideration hearing sex offenders the panel shall consider the information described in Section 2281(b).

(c) Circumstances Tending to Show Unsuitability. The panel shall consider those circumstances listed in Section 2281(c) which the panel finds are appropriate to the case of a sex offender. The panel may make other findings when warranted by the circumstances of an individual case and reasons are stated in the record.

(d) Circumstances Tending to Show Suitability. The panel shall consider those circumstances listed in Section 2281(d) which the panel finds are appropriate to the case of a sex offender. The panel may make other findings when warranted by the circumstances of an individual case and reasons are stated in the record.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.7, 3041, Penal Code.

§ 2433. Base Term.

(a) General. The panel shall set a base term for each sex offender who is found suitable for parole. The base term shall be established based on the circumstances of the series of prior and current offenses which resulted in conviction as a sex offender, considered as a whole. The panel shall set a base term which it finds to be appropriate in an individual case after consideration of the Circumstances in Aggravation listed in Section 2434 and the Circumstances in Mitigation listed in Section 2435, and any other circumstances which appear to be important in the judgment of the panel.

NOTE: Authority cited: Section 5076.2, Penal Code. Reference: Sections 667.51 and 3041, Penal Code.

§ 2434. Circumstances in Aggravation of the Base Term.

Circumstances in aggravation of the base term include:

(a) Criminal History.

(1) The current offense or offenses and the offenses underlying the prior prison terms are violent offenses as defined in Penal Code Section 667.5(c).

(2) The current offense or offenses and the offenses underlying the prior prison terms were committed within a relatively short time of each other.

(3) The prisoner has been convicted of offenses, misdemeanors or felonies, involving sexually aberrant behavior other than those resulting in the life sentence under Penal Code Section 667.51.

(4) The prisoner has served more than two prior prison terms for offenses listed in Penal Code Section 667.51.

(5) The current or prior commitments to state prison resulted from multiple convictions for sex and sex-related offenses.

(b) Circumstances of Offenses.

(1) The current offense or offenses or the offenses underlying the prior prison terms resulted in physical or psychological injury to the victim beyond that occasioned by the sex act.

(2) The current offense or offenses or the offenses underlying the prior prison terms involved arming or use of a firearm or deadly or dangerous weapon.

(3) The current offense or offenses and the offenses underlying the prior prison terms establish a pattern of sexual crimes against children.

(4) The circumstances of the current offense or offenses and the offenses underlying the prior prison terms indicate the prisoner preys on victims who are particularly vulnerable resulting from factors other than the age or sex of the victim, and/or who occupy a position of trust in relation to the prisoner.

ATTACHED COURT ORDER.



Date: AUGUST 7, 2007  
 Honorable: PETER ESPINOZA  
 NONE

Judge JOSEPH M. PULIDO  
 Bailiff NONE

Deputy Clerk  
 Reporter

(Parties and Counsel checked if present)

BH004213

In re,

ALFONSO CARRANZA,

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS

The Court has read and considered the Petition for Writ of Habeas Corpus filed on August 18, 2006 by Petitioner. Having independently reviewed the record, giving deference to the broad discretion of the Board of Parole Hearings ("Board") in parole matters, the Court concludes that the record contains "some evidence" to support the Board's finding that Petitioner is unsuitable for parole. See Cal. Code Reg. Tit. 15, §2402; *In re Rosenkrantz* (2002) 29 Cal.4<sup>th</sup> 616, 667.

Petitioner was received in the Department of Corrections in 1989 after convictions for murder in the second-degree, attempted murder, and attempted manslaughter with the use of a firearm. He was sentenced to 17 years to life, plus a consecutive 14 years. His minimum parole eligibility date was March 15, 2007. The record reflects that on November 30, 1985, Petitioner argued with Raul Munoz at a bar over who had the next game of pool. Petitioner threatened Raul and the two engaged in a shoving match. Raul then left the bar and picked up his brothers, Juan and Pedro. The three brothers returned to the bar to confront Petitioner. Petitioner's friend attempted to hit Raul, but was stopped by Pedro. The owner of the bar threatened to kick the entire group out if they did not stop fighting, so they separated and the Munoz brothers began to leave. As they were leaving, Petitioner's friend told Raul that he wanted to speak to him outside. When they reached the door, Petitioner pointed a gun at Raul and shot him in the neck from approximately 12 inches away. Raul began to run away and Petitioner shot him again in the leg. Petitioner then turned the gun on Juan, who was standing nearby in the parking lot and shot him once, killing him. Finally, Petitioner shot two times at Pedro as he ran away. Pedro was not hit by either shot. Petitioner and his friend then fled the scene and Petitioner later moved out of California. He began serving his sentence for this offense in 1989, after serving another sentence in another state.

The Board found Petitioner unsuitable for parole after a parole consideration hearing held on April 19, 2006. Petitioner was denied parole for four years. The Board concluded that Petitioner was unsuitable for parole and would pose an unreasonable risk of danger to society and a threat to public safety. The Board based its decision primarily upon the commitment offense.

The Court finds that there is some evidence to support the Board's finding that Petitioner's offense demonstrated an exceptionally callous disregard for human suffering. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(D). Petitioner shot Raul in the neck at close range and then continued shooting at him as he fled, hitting

Date: AUGUST 7, 2007  
Honorable: PETER ESPINOZA  
NONE

Judge JOSEPH M. PULIDO  
Bailiff NONE

Deputy Clerk  
Reporter

(Parties and Counsel checked if present)

BH004213

In re,  
ALFONSO CARRANZA,  
Petitioner,

Counsel for Petitioner:

On Habeas Corpus

Counsel for Respondent:

him again in the leg. Petitioner also fatally shot Juan, although Juan was merely standing nearby. Petitioner then fled the scene, leaving each of his victims to die. These actions demonstrated an exceptionally callous disregard for human suffering.

The Court also finds that there is some evidence to support the Board's finding that Petitioner's motive was very trivial in relation to the offense. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(E). The entire altercation began with an argument over who was next in line to play pool at a bar. Although the victims did provoke Petitioner by confronting him after the initial argument, they were leaving the bar at the time he began shooting them and were no longer posing a threat. The minor confrontation was a very trivial motive for shooting at three men, killing one and severely injuring another. Because of these facts, the Court also finds that there is some evidence to support the Board's finding that there were multiple victims. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(D).

The Board also considered Petitioner's prior offenses and substance abuse problems, his limited programming; his failure, until recently, to participate in a substance abuse-related self-help program; his parole plans; and the opposition from the District Attorney and the victims' family members. While these are not factors tending to show unsuitability under Cal. Code Regs., tit. 15, §2402, subd. (c) and, therefore, may not justify a finding of unsuitability on their own, the Board may properly consider them.

Finally, the Court finds that the Board did not err in denying Petitioner parole for a period of four years. The Board must articulate reasons that justify a postponement of two to five years in a separate finding, but those reasons need not be completely different from those justifying the denial of parole. See *In re Jackson* (1985) 39 Cal.3d 464, 479. The Board indicated that Petitioner was denied parole for four years because his commitment offense involved multiple crimes against multiple victims, demonstrated an exceptionally callous disregard for human suffering, and had a trivial motive and because until recently, Petitioner has failed to participate in substance abuse-related self-help programs or vocational programs. These reasons were sufficient to justify a four-year denial.

Accordingly, the petition is denied.

The court order is signed and filed this date. The clerk is directed to give notice.

Date: AUGUST 7, 2007

Honorable: PETER ESPINOZA

NONE

Judge

JOSEPH M. PULIDO

Bailiff

NONE

Deputy Clerk

Reporter

(Parties and Counsel checked if present)

BH004213

In re,

ALFONSO CARRANZA,

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

A true copy of this minute order is sent via U.S. Mail to the following parties:

Alfonso Carranza

E-30803

San Quentin State Prison

San Quentin, California 94974

Department of Justice- State of California

Office of the Attorney General

110 West A Street, Suite 1100

San Diego, California 92101

Attn: Ms. Cynthia Lumely



<b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF LOS ANGELES</b>		Reserved for Clerk's File Stamp  <b>CONFIRMED COPY</b>  <b>AUG 10 2007</b>  <b>LOS ANGELES</b> <b>SUPERIOR COURT</b>  -Joseph M. Pulido
COURTHOUSE ADDRESS: Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street Los Angeles, CA 90012		CASE NUMBER:  <b>BH004213</b>
PLAINTIFF/PETITIONER:  <b>ALFONSO CARRANZA</b>		
<b>CLERK'S CERTIFICATE OF MAILING</b> CCP, § 1013(a) Cal. Rules of Court, rule 2(a)(1)		

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

- |  |  |
|--|--|
| <input type="checkbox"/> Order Extending Time            | <input checked="" type="checkbox"/> Order re: Writ of Habeas Corpus                          |
| <input type="checkbox"/> Order to Show Cause             | <input type="checkbox"/> Order to Serve Responding Party                                     |
| <input type="checkbox"/> Order for Informal Response     | <input type="checkbox"/> Order re:   |
| <input type="checkbox"/> Order for Supplemental Pleading | <input type="checkbox"/> Copy of Petition for Writ of Habeas Corpus for the Attorney General |

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

August 10, 2007  
 DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By: Joseph M. Pulido, Clerk  
 Joseph M. Pulido

Alfonso Carranza  
 E-30803  
 San Quentin State Prison  
 San Quentin, California 94974

Department of Justice- State of California  
 Office of the Attorney General  
 110 West A Street, Suite 1100  
 San Diego, California 92101  
 Attn: Ms. Cynthia Lumely

**EXHIBIT D**

ORIGINAL

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

COURT OF APPEAL - SECOND DISTRICT

FILED

DIVISION SEVEN

OCT - 2 2007

In re

B202483

JOSEPH A. LANE

Clerk

F. ANDERSON

Deputy Clerk

(Super. Ct. No. A539854)

ALFONSO CARRANZA

on Habeas Corpus.

ORDER

THE COURT\*:

The petition for writ of habeas corpus filed herein September 28, 2007 has been read and considered. The petition is denied. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 667; *In re Dannenberg* (2005) 34 Cal.4th 1061.)

  
\*PERLUSS, P.J.,

  
JOHNSON, J.,

  
ZELTON, J.

**EXHIBIT E**

Name ALFONSO CARRANZA  
 Address SAN QUENTIN STATE PRISON  
SAN QUENTIN, CA 94974  
 CDC or ID Number E-30803

**SUPREME COURT  
FILED**

**OCT 26 2007**

**Frederick K. Ohlrich Clerk**

**CALIFORNIA SUPREME COURT Deputy**

(Court)

ALFONSO CARRANZA,	
Petitioner	vs.
ROBERT AYERS, JR., Warden,	
Respondent	

**PETITION FOR WRIT OF HABEAS CORPUS**

No.

**S157586**

(To be supplied by the Clerk of the Court)

**INSTRUCTIONS—READ CAREFULLY**

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

Page one of six

6. **3** GROUND 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

See "INSERT A," Ground 1, attached pages 1 through 12; "INSERT B," Ground 2, pages 13 through 21; "INSERT C," Ground 3, pages 22 through 23; and "INSERT D," Ground 4, pages 24 through 27.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: *who* did exactly *what* to violate your rights at what time (*when*) or place (*where*). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

INSERT A

## Ground 1

PETITIONER'S RIGHTS TO STATE AND FEDERAL DUE PROCESS WERE VIOLATED WHEN THE BOARD OF PAROLE HEARINGS DENIED HIM PAROLE BECAUSE NO EVIDENCE SUPPORTS THE BOARD'S FINDING AND DECISION THAT PETITIONER IS UNSUITABLE FOR PAROLE AND POSES A CURRENT UNREASONABLE THREAT TO PUBLIC SAFETY

On April 19, 2006, Alfonso Carranza ("Petitioner"), appeared before the Board of Parole Hearings ("BPH") for his initial "Life Term Parole Consideration Hearing." The BPH found petitioner unsuitable for parole and that he would pose an unreasonable risk to society or a threat to public safety if released from prison. The BPH stated that "Nothing that happens here today will change the findings of the court, we are not here to retry your case. Our purpose is solely to determine your suitability for parole." (Exhibit A, Hearing Transcripts ("HT"), p. 9.) However, the record indicates that the BPH did relitigate the case, mischaracterized it as a first degree murder, being calculated, and based its decision on unchanging factors, while ignoring factors that support a finding of rehabilitation and suitability for parole. The BPH based its decision to deny parole on the following:

1. The offense itself is of sufficient severity for the denial. And for that reason the inmate is being denied.
2. The inmate is also being denied because he has an escalating pattern of criminal conduct.
3. The inmate has failed at previous grants of probation and cannot be counted upon to avoid criminality.
4. The inmate has failed to profit from societies previous attempts to correct his criminality such attempts include adult probation as well as your drug rehab.
5. The prisoner has failed to sufficiently participate in self-help and therapy programming.
6. [T]he panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin.
7. The prisoner needs therapy, programming and self-help in order to face, discuss, understand, and cope with stress in a non destructive manner as well as to get further insight



INSERT A

into the crime. Until progress is made the prisoner continues to be unpredictable and a threat to others.

(Exhibit A, HT at p. 83-86.)

After denying Petitioner parole, Deputy Commissioner Thompson commended Petitioner for the following:

[H]e did remain disciplinary free and he has been involved in counseling his peers and the Spanish speaking inmates as well as adjustment issues. And he was noted and commended for that by the church group, I believe it is Jubilee Christian church. And he has a number of letters thanking him for his help and his cooperation in various events. I think they all show a willingness to be socialized and try to have empathy for other people. Which is to be commended and hopefully built on as a good foundation for future life or future contacts. And I think all in all he has made some educational efforts, he did get an equivalency degree. And he has taken English as a second language which makes him a good role model for Spanish speaking inmates who are trying to interface and interrelate to an English speaking, American English admittedly, but an English speaking community. And I think that is all commendable.

(Exhibit A, HT at 86-87.)

The BPH's reason to deny parole must be supported by "some evidence" pertinent to the "relevant standards" promulgated by the BPH to comply with constitutional due process. (In re Rosenkrantz, supra, 29 Cal.4th at pp. 657-658 & 675-677; see also In re Dannenberg, supra, 34 Cal.4th at pp. 1071, 1084, 1095, fn. 16.) This requires a BPH panel's decision to deny parole to "have some rational basis in fact." (Scott II, 133 Cal.App.4th at p. 590, fn. 6.) As the administrative record of the BPH's review and consideration of the pleadings make clear, there simply is no such rational basis supporting the BPH's decision to deny Petitioner parole.

This is another case which demonstrates the BPH's boiler-plate denial of using the gravity of the offense as the basis to deny parole regardless of a prisoner's efforts and showing of rehabilitation. Putting aside the pre-commitment factors and, commitment offense, "all other factors indicate

INSERT A

[Petitioner] is suitable for release on parole." (Scott II, supra, 133 Cal.App.4th at 594.) The California First Appellate District Court cautioned the Governor about a reversing a grant of parole based solely on the commitment offense or other pre-commitment factors:

Reliance on such an immutable factor "without regard to or consideration of subsequent circumstances" may be unfair [citation] and "runs contrary to the rehabilitative goals espoused by the prison system and could result in a due process violation." [Citation.] The commitment offense can negate suitability only if circumstances of the crime reliably established by evidence in the record rationally indicate that the offender will present an unreasonable public safety risk if released from prison. Yet, the predictive value of the commitment offense may be very questionable after a long period of time. [Citation.] Thus, denial of release solely on the basis of the gravity of the commitment offense warrants especially close scrutiny.

(Id. at pp. 594-595.) Where such scrutiny reveals that the [BPH] "did not fulfill" the requirement "to consider all other relevant factors," the decision cannot stand. (Id. at p. 595.) Such is the case here.

1. The Facts of the Commitment Offense Do Not Provide a Reasonable Basis to Deny Parole.

The BPH's mischaracterization of Petitioner's commitment offense does not make it "some evidence" to support a finding of unsuitability for parole. In relying on the commitment offense to deny parole, the BPH stated:

Multiple victims were attacked, injured and one was killed during the offense. The offense was carried out in a dispassionate and calculated manner, which demonstrates an exceptional callous disregard for human suffering. The motive for the crime was inexplicable. The sad part of my position [Commissioner Lee] is that I truly do not know what occurred out on the street nor does the Deputy Commissioner. We are only privy to what is submitted before us. The inmate's version is totally at odds with the information we have received in our packets.

(Exhibit A, HT p. 82.)

The BPH cannot base their decision on uncertainty and then used that uncertainty to recharacterize the second degree murder, commitment offense,

INSERT A

as a first degree, calculated, murder. As clarified by Petitioner's attorney,

Michael Sattris:

We don't have two counts of attempted murder in this case, as the District Attorney characterized it. We have a finding of attempted voluntary manslaughter and that is critical because that shows that this isn't the kind of cold calculated attempt to kill three people that the District Attorney is now trying to promote in a retrial of the case. The manslaughter finding or attempted manslaughter does indicate apparent acceptance either a provocation or unreasonable belief in the need for self-defense. And there is substantial evidence of course in the record that would support this (HT 61-62). ... All right so I would ask the board to do what it indicated in the vary outset of this hearing of what it was going to do. Which is to consider Mr. Carranza [Petitioner] for parole in accordance with Penal Code Section 3041 and its own rules and regulations. That Penal Code Section provides that the board should normally grant a prisoner or set a parole date for a prisoner at his first parole hearing (HT 64). ... Under the boards rules in terms of multiple victims to start with that is a factor that leans toward a finding of unsuitability for parole. But what is important is that is only if that offense shows he presents a continuing danger at this point. Because we are talking about present dangerousness when we are talking about suitability for parole. The record makes it very plain in this case that kind of entrenched criminality at that time was a the product of a kind of destructive lifestyle he was living involving drugs and weapons (HT 65). ... In terms of pre offense factors. You have no juvenile record, ... lacks any significant history of violent crime. And what you have is no violent criminality outside of this offense. This is his single act of criminal violence (HT 66). ... Institutional behavior has institution activities indicated an enhanced ability to function within the law upon release. And you see that first of all with the behavior of the remarkable record he has of being disciplinary free (HT 67). ... He has his plans for what is most realistic, really the only realistic plan for the future is he is going to be deported to Mexico. And he is fully prepared for that. He has his wife ready to move as need to be back there (HT 69.)

(Exhibit A, HT 61-69.)

"[T]he [BPH] is required to consider whether the prisoner committed the crime as the result of significant stress in his or her life." (Scott II, supra, 133 Cal.App.4th at 596, quoting with emphasis In re Rosenkrantz, supra, 29 Cal.4th at p. 679.) a failure to do so "is arbitrary and capricious

"INSERT A

...." (Ibid.) The BPH's denial here was thus arbitrary and capricious, for they failed to consider the evidence of the considerable stress that Petitioner was experiencing at the time, which includes being addicted to drugs and alcohol, while being confronted by the victims in a altercation. As petitioner explained in his written version of the offense, Petitioner was not the instigator and was under influence:

On the evening of November 30, 1985 I went to the La Casa Blanca bar. I started to play pool, drink beer, and snort cocaine. When I got into an argument with Raul Munoz [victim] instead of trying to calm the situation down I responded at his [the victim's] level. In my macho mentality I thought it was considered we[a]k to back down from violence. After the heated argument Mr. Munoz left the bar and I stayed to continue to play pool. Just before the bar closed I went outside and saw Mr. Munoz and two men coming at me. Mr. Munoz was cursing at me and I reached over and I was quick to shoot -- And I overreacted, [I]... I was living a life that was out of control. ...

(Exhibit A, HT 21-22.)

Though the BPH did mention that "[t]he information apparently in the packets seem to indicate at trial the witnesses did indicate there was an ongoing dispute that apparently on at least two occasions an attempt to solve this particular dispute in fact it seems to indicate there was a point and time where both sides shook hands[]" (HT 82-83), and that "the victim left the bar and went and got his brothers," (HT 16), the BPH ignored the fact that the jury rejected the prosecutor's version of the crime when it found Petitioner guilty of a less capable offense than charged and argued by the District Attorney's office. Furthermore, the BPH recognized that Petitioner's "usage in regards to cocaine[]" (HT 84), at the time of the offense, the BPH decision studiously avoided notice of the evidence of stress that the record spread before them. The BPH not only ignored the evidence that Petitioner was experiencing a significant amount of stress at the time of the offense, but that the stress had built up over a long period of time.

INSERT A

(HT 84.) (See Scott II, supra, 133 Cal.App.4th at p. 596, quoting Cal. Code Regs., tit. 15, §2402, subd. (d)(4) ["the prisoner's 'motivation' for the offense tends to show suitability when it was the result of significant stress in his life, especially if the stress has built over a long period of time"].)

The fact that the BPH describes the commitment offense as "dispassionate and calculated" (HT 82), does not change the analysis. As the on Court has stated: "All second degree murders by definition involve some callousness - i.e., lack of emotion or sympathy, emotional insensitivity, indifference to the feelings and suffering of others. [Citation.] As noted, however, parole is the rule, rather than the exception, and a conviction of second degree murder does not automatically render one unsuitable." (Scott II, supra, 119 Cal.App.4th at p. 891.)

As brutal as Petitioner's homicidal conduct may have been, it did not go beyond what caused that conduct to constitute second degree murder, he did nothing beyond what accomplished the killing to "cruelly or callously exacerbate[] the victim's suffering." Parole authorities may use the factors in Petitioner's case, shooting the victim, to aggravate his term, but that manner of death does not disqualify a prisoner from parole. As the California Court of Appeals, First Appellate District, noted, the BPH's observation that "[t]he offense itself is of sufficient severity for the denial" (HT 83), "could be repeated annually until [Petitioner] dies or is rendered helpless by the infirmities of sickness or age." (Scott II, supra, 133 Cal.App.4th at p. 595.) The manner in which Petitioner shot at the victim is not atypical for a murder case, and hardly acts to "distinguish this crime from other ... murders as exceptionally callous." (In re Smith, supra, 114 Cal.App.4th at p. 367.) As the California Supreme Court has noted on more



INSERT A

than a score of occasions, "murder is seldom pretty." (See, e.g., People v. Hinton (2006) 37 Cal.4th 839, 896.) The BPH's denial of parole to such murders is contrary to the statute.

The BPH failed to conduct an individualized assessment of all required factors. Clearly, the facts at hand do not meet the requirements set forth by the regulations and the courts to justify the BPH's finding of unsuitability for parole. As the record shows, Petitioner's crime merely satisfies the bare minimum requirements for finding of a second degree murder. He did not torture Mr. Munoz, or lie in wait for him; he did not prolong his suffering, or kill him in order to rob him or incite a race war. His crime, while terrible, does not rise to the level of callousness present in Dammenberg, where after a long period of marital disharmony, the defendant bludgeoned his wife repeatedly with a pipe wrench and then drowned her or allowed her to drown in the bathtub; or Rosenkrantz, where defendant purchased an Uzi and, one week after provocation, shot the victim numerous times at close range and then remained a fugitive for 24 days; or Van Houten, where defendant assisted with multiple stabbings of the victim with a knife and bayonet, after the victim witnessed her husband receiving the same fate, all an effort to incite a race war. See Van Houten, 116 Cal.App.4th at 365. Not only does Petitioner's crime fail on its own to constitute "some evidence" that he is a continuing threat to public safety, but the BPH erred by failing to consider all of factors required by the regulations. Post-commitment facts are essential to determining suitability of parole. The BPH failed to consider Petitioner's perfect post-commitment record, positive psychological and forensic evaluations, exemplary in-prison work record, extensive self-help and therapy, and post release offer of housing and employment in Mexico, and therefore cannot justify his denial of parole.

INSERT A

In another recent opinion, the Honorable Judge Marilyn H. Patel in Martin v. Marshall, No. C-05-3486 MHP, ---F.Supp.2d---, 2006 WL 1344584 (N.D. Cal. May 17, 2006), Judge Patel held that (1) sole reliance on the circumstances of petitioner's offense and conduct prior to the offense in denying parole constituted a due process violation, and (2) denial of parole under California's then-existing no-parole policy for murderers denied the inmate his due process right to be heard by an impartial decision-maker. Judge Patel further found that California inmates have a federally-protected due process liberty interest in parole.

2. The Facts of Petitioner's Escalating Pattern of Criminal
3. Conduct; His Failure at Previous Grants of Probation; and
- & His Failure to Profit from Societies Previous Attempts to
4. Correct His Criminality, Do Not Provide Some Evidence That Petitioner is a Current Unreasonable Risk to Public Safety.

The BPH also points to Petitioner's pre-commitment offense behavior. "The inmate began to use cocaine heavily in California. And began to sell cocaine apparently to support his habit. As far as previous contacts the inmate as far as we know has no juvenile contacts. ... 1980. He also has, was arrested I should say for drunk driving in the following month in April. The inmate was ordered to attend a drug and alcohol program at that time. In 1984 the inmate was in possession of a controlled sustains. ..." (HT 14.) In 1984 Petitioner was arrested for possession of gun and cocaine. In 1987 Petitioner was arrested for possession of cocaine and received six years in Federal Prison. (HT 15.) These charges do not rise to the level anticipated in the Regulations which define "Previous Record of Violence" as "previous occasions [prisoner] inflicted or attempted to inflict serious injury on a victim." 15 CCR § 2402(b)(2); see also Van Houten, 116 Cal. App.4th at 353. Possession of cocaine is not assault and Petitioner's arrest for possession of weapon was not an attempt to inflict injury, of any severity,



INSERT A

on anyone. No reasonable interpretation (Rosenkrantz, 29 Cal.4th at 680) of these facts can transform them into becoming "some evidence" of a "Previous Record of Violence." (15 CCR § 2402(b)).

Courts have also made clear that the evidence cited by the Executive must be relevant and probative to the factors that such evidence is being used to support. For instance, in Smith, the Governor had pointed to evidence indicating that "the crime was not an isolated incident, but rather the culmination of 'a continuing pattern' of personal drug use, social instability, and violence against Garner." Smith, 114 Cal.App.4th at 367. The court held that though there was some evidence of drug use, such evidence was not relevant to a determination of the key inquiry -- whether the inmate would pose a current, unreasonable threat to public safety.

[T]he observation is more historical backdrop than a reflection of the circumstances surrounding commission of the offense: its manner, scope, and motivation. Indeed, there is no evidence that Smith shot Garner while he was under the influence, and no evidence that he abused her immediately before the shooting or even during the days and weeks before it. Thus, the Governor's observation does not tend to distinguish Smith's offense as especially grave.

(Id. at 368.)

5. There No Evidence That Petitioner Has Failed to Sufficiently Participate in Self-Help and Therapy Programming to Support a Finding of Unsuitability for Parole.

In another recent parole case, the court held that the Board's observation that the inmate had not gained an ability to speak English and that he had failed to upgrade his vocational training was not relevant to support a conclusion that "he would pose an unreasonable risk of danger to society or threat to public safety if released from prison." Nothing in the record indicates that defendant's criminality or ability to support himself was affected by any limitation of his vocational or language skills."

In re Deluna (2005) 126 Cal.App.4th 585, 598; Cf. Van Houten, 116 Cal.App.4th

INSERT A

at 353 (inmate's previous arrest record did not constitute "some evidence" of a threat to public safety because the alleged acts did not involve serious injury or attempted serious injury to a victim).

6. The Fact That The District Attorney's Office and Victim's Next of Kin Opposes Parole Does Not Constitute "Some Evidence" That Petitioner Currently Poses An Unreasonable Risk to Public Safety.

The BPH cited the District Attorney's Office and Victim's next of kin opposition to a finding of suitability to deny Petitioner parole. (HT 86.) Public outcry cannot be used to determine whether an inmate is suitable for parole. (In re Powell (1988) 248 Cal.Rptr. 431; In re Fain (1983) 139 Cal.App.3d 295.) Furthermore, because Petitioner had no notice that this factor would be used against him, this factor is unconstitutionally vague. (United States v. Doremus, 888 F.2d 630, 634 (9th Cir. 1989) [A statute (or regulation) is void for vagueness : if it fails to give adequate notice to people of ordinary intelligence concerning the conduct it proscribes, or if it invites arbitrary and discriminatory enforcement.] .)

7. There is No Evidence to Support the BPH's Finding that Petitioner Needs Programming and Self-Help in Order to Face, Discuss, Understand, and Cope With Stress in a Non Violent Manner.

Finally, the BPH panel found that Petitioner "needs therapy, programming, and self-help in order to face, discuss, understand and cope with stress in a non destructive manner as well as to get further insight into the crime. Until progress is made the prisoner continues to be unpredictable and a threat to others." (HT 86.)

Petitioner has been disciplinary free his entire time in prison. He has shown that he can cope with stress in a non-destructive manner. In In re Smith, Cal.App.4th at page 371, the court held that evidence that a prisoner used intoxicating substance 20 years prior is not some evidence

INSERT A

that he is currently dangerous.

[W]e conclude that Smith's past desire for and use of drugs not by itself reasonably established current unsuitability because there is no additional evidence to complete a chain of reasoning between his past drug use and a finding that because of it he currently poses an unreasonable risk of danger if released. In other words, in the absence of some evidence to support a reasonable belief that Smith might start using drugs again, the fact that he used drugs extensively more than 20 years ago does not by itself represent some evidence that he is currently dangerous.

Same holds true in the instant case. There is no reasonable basis to believe that Petitioner might start using alcohol and drugs if released. The BPH is asserting authority that it does not possess, denying parole because a prisoner continues to be unpredictable. "According to a Task Force of the American Psychiatric Association, '[n]either psychiatrist nor anyone else have demonstrated an ability to predict the future violence or dangerousness. [Citation] As our Supreme Court has also noted, 'the same studies which proved the inaccuracy of psychiatric prediction [of dangerousness] have demonstrated beyond dispute the no less disturbing manner in which such prophecies consistently err: they predict acts of violence which will not in fact take place ('false positive'), thus branding as 'dangerous' many persons who are in reality totally harmless. [Citation]" (People v. Burnick (1975) 14 Cal.3d 306, 327.)

Under the clearly established framework of Allen and Greenholtz, "California's parole scheme gives rise to a cognizable liberty interest in release on parole." McQuillion v. Duncan, 306 F.3d 895, 902 (9th Cir. 2002). The scheme creates a presumption that parole release will be granted unless the statutorily defined determinations are made. (Id.; Biggs v. Terhune, 334 F.3d 910, 915-916 (9th Cir. 2003) (finding initial refusal to set a parole date for prisoner with 25-to-life sentence implicated prisoner's liberty interest.)) In sum, the structure of California's parole scheme, with its

INSERT A

mandatory language and substantive predicates, gives rise to a federally protected liberty interest in parole such that an inmate has a federal right to due process in parole proceedings.

For the foregoing reasons, the Court should reverse the BPH's findings and order the BPH to set Petitioner's term within the Matrix guidelines for second degree murder. (See Exhibit B, CCR-15 § 2403(c).)

INSERT B

## Ground 2

THE BOARD OF PAROLE HEARINGS VIOLATED LEGISLATIVE INTENT AND PETITIONER'S STATE AND FEDERAL DUE PROCESS RIGHTS WHEN THEY BASED THEIR DECISION TO DENY PETITIONER PAROLE BEYOND THE GUIDELINES ON THE SAME FACTORS THAT WENT INTO FORMULATING THE GUIDELINES IN THE FIRST PLACE.

On April 19, 2006, Alfonso Carranza ("Petitioner"), appeared before the Board of Parole Hearings ("BPH") for his initial "Life Term Parole Consideration Hearing." In its decision to deny Petitioner parole for four-years, the BPH stated:

The panel has reviewed all information received from the public and relied on the following circumstances in concluding the prisoner is not suitable for parole and would pose an unreasonable risk to society or a threat to public safety if released from prison. Multiple victims were attacked, injured and one killed during the offense. The offense was carried out in a dispassionate and calculated manner. The offense was carried out in a manner, which demonstrates an exceptional callous disregard for human suffering. The motive for the crime was inexplicable or very trivial in relationship to the offense. The sad part of my position is that I truly do not know what occurred out on the street nor does the Deputy Commissioner. We are only privy to what is submitted before us. The inmate's version is totally at odds with the information we have received in our packets. ... The inmate is also denied because he has an escalating pattern of criminal conduct. ... The inmate failed at previous grants of probation and cannot be counted upon to avoid criminality. ... The prisoner has failed to sufficiently participate in self-help and therapy programming. ... In regards to inmate's parole plans I think they are sufficient. ... However the panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin.

(Exhibit A, Hearing Transcripts, pp. 82-85.)

This case presents interesting issues concerning the procedures and guidelines used by the BPH in reaching and explaining its decisions concerning parole. The issues arise because the BPH has designed procedures (Pursuant to Cal. Penal Code §3041 (a)) that are suppose promote rationality in its decision-making process and to enhance understanding of the that process by all concerned, especially prisoners. The key ingredients of

INSERT B

the procedures are (a) the use of a Matrix table of guidelines as an aid in deciding the appropriate length of time a prisoner should serve without good-time credit, and then calculating the good-time credit toward that term; and (b) a requirement that a prisoner denied parole receive in writing the reasons for the decision. These aspects of the BPH's guidelines and procedures are detailed in In re Rosenkrantz (2002) 29 Cal.4th 616, 653-654; Cal. Codes of Regs. tit. 15 ("CCR-15") § 2400-2411. (Exhibit B.)

The guideline table sets forth suggested length of time to be served prior to parole for various combinations of two variables: 1) the severity of the offense, and 2) the characteristics of the offender in relation with the victim. The precise issues raised by this case are (a) whether, in determining suitability for parole, the BPH must use the offense for which the prisoner was convicted, or can use the offense the BPH concludes he or she has committed based on the BPH's understanding of facts that allegedly occurred, and (b) whether the BPH can use factors that went into formulating the guidelines for setting terms (in mitigation or aggravation) as the stated reason for denying parole.

As brutal as Petitioner's homicidal conduct may have been, by the BPH's own guidelines, petitioner's term "shall normally" be set at his initial parole hearing, which was held in April 19, 2006. Petitioner Minimum Eligible Parole Date (MEPD) is set at March 15, 2007. As will be shown below, Petitioner should have been found suitable for parole and his term should have been set somewhere in the range of 15 to 19 years, which can be reduced with good conduct credit. (Exhibit B, CCR-15 § 2410.)

The BPH's own guidelines requires the BPH to determine the category most closely related to the circumstances of the crime, and impose the middle base term reflected in the matrix unless the panel finds



JNDEN: D

circumstances in aggravation or mitigation. (CCR-15 § 2403.) The criteria set forth in 15 CCR-15 § 2403(c) describes three circumstances and victim situations to be used in determining the category most closely related to the crime being reviewed for setting terms:

#### CIRCUMSTANCES

##### A. Indirect

Victim died of causes related to the act of the prisoner but was not directly assaulted by prisoner with deadly force; e.g., shock producing heart attack; a crime partner actually did the killing.

##### B. Direct or Victim Contribution

Death was almost immediate or resulted at least partial from contributing factors from the victim; e.g., victim initiated struggle or had goaded the prisoner. This does not include victim acting in defense of self or property.

##### C. Severe Trauma

Death resulted from severe trauma inflicted with deadly intensity; e.g., beating, clubbing, stabbing, strangulation, suffocation, burning, multiple wounds inflicted with a weapon not resulting in immediate death or actions calculated to induce terror in the victim.

#### OFFENDER'S AND VICTIM'S RELATIONSHIP

##### I. Participating Victim

Victim was accomplished or otherwise implicated in a criminal act with the prisoner during which or as a result of which the death occurred, e.g., crime partner, drug dealer, etc.

##### II. Prior Relationship

Victim was involved in a personal relationship with prisoner (spouse, family member, friend, etc.) which contributed to the motivation for the act resulting in death. If the victim had a personal relationship but prisoner hired and/or paid to commit the offense, see Category IV.

##### III. No prior relationship

Victim had little or no relationship with prisoner, or motivation for act resulting in death was related to the accomplishment of another crime, e.g., death of victim during robbery, rape, or other felony.



(CCR-15 § 2403(c), Matrix of Base Terms for Second Degree Murder on or after November 8, 1978.) (Exhibit B, p. 76.)

CCR-15 § 2407 provides Adjustments for Other Offenses:

(a) General. Effective January 1, 1979, Penal Code Section 669 was amended to permit the court to impose sentences for other crimes to be served consecutively to a life sentence (Stats. 1978, Ch. 579). Since the court has discretion to order that the sentences for more than one crime be served consecutively, the board shall consider the court's action in determining the adjustment pursuant to this section.

(b) Multiple Convictions.

(1) General. The board shall not add adjustments for convictions for which the prisoner has been pardoned or which have been reversed by an appellate court.

(2) Consecutive Life Sentences Imposed by the Court. If the court imposed consecutive life sentences the board shall determine the base crime and base term as provided in Section 2403(a). The board shall add adjustments for remaining life crimes. The adjustment for each remaining life crime shall be a period of time commensurate with the nature of the crime but no less than the period of parole ineligibility for the crime. In no case will the parole date for consecutive sentences be earlier than the parole date for the concurrent sentences.

(3) Concurrent Life Sentences Imposed by the Court. If the court imposed concurrent life sentences, the board may add an adjustment because prisoner has been convicted of more than one crime. The suggested adjustment is greater of:

(A) Time served on the nonbase life crime prior to reception on the base offense; or

(B) The following adjustment:

1. First degree murder: 13 years for a first degree murder committed on or after November 8, 1978.

2. Second degree murder: 8 years for second degree murder committed on or after November 8, 1978.

3. One-half the period of parole ineligibility for other life crimes.

(4) Consecutive Nonlife Sentences Imposed by the Court. If the court imposed consecutive nonlife sentences the Board shall not add additional adjustment for nonlife crime.

(5) Concurrent Nonlife Sentences Imposed by the Court. If the court imposed concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more than one crime. The suggested adjustment is the greater of:

(A) Time served for nonlife crime prior to reception on the life offense; or

(B) One-half the determinate term imposed by the court; or

(C) One-half the term that would be established under Section 227 (e) for crimes which carry a sentence of one year and one day.

INSERT B

(CCR-15 § 2407.) This section was completed ignored or overlooked.

The record shows that the BPH did not follow its own guidelines and Matrix. Instead, the BPH based its decision to deny parole on the same factors that went into formulating the guidelines.

The BPH's guidelines recognize that there will be adjustment to be made for elements that go beyond what is necessary to convict for second degree murder. These factors do not preclude a finding of suitability.

(See CCR-15 § 2411, Fixing a Parole Date.) (Exhibit B, p. 77-78.)

In Little v. Hadden, 504 F.supp. 558, 561, a federal court addressed the same type of abuse that occurred in this case:

[I]t is unreasonable and impermissible for the Commission to base a decision to continue beyond the guidelines on the same factors that went into formulating the guidelines in the first place. No one disputes that this was a serious crime, but the factors of seriousness indicated by this record are included in the guidelines themselves. ... It is clear to the Court from the record in this case that the Commission has attempted to continue Little in custody beyond the guidelines because of its ad hoc decision regarding the seriousness of the offense, but the factors relied upon are either unsupported by the record or were already considered in formulating the guidelines. ... In short, the Commission's decision is arbitrary and capricious because it is not based on anything in the record before it. Moreover, it reflects an abuse of discretion because it attempts to continue Little's confinement beyond the guidelines without the statutory required good cause.

(See also, Lupo v. Norton, 371 F.Supp. 156 (1974).)

Petitioner's right to a presumption parole release date, Legislative intent, includes "behavioral" credits for participation with "good conduct" under California Penal Code § 2900.5 and CCR-15 § 2900. The BPH's failure to set petitioner's parole release date abrogates this whole Legislative mandate for prisoners with term-to-life sentences. Failure to set a term at the earliest possible time, initial hearing, also precludes Petitioner from participating in self-help programs located at the minimum security

INSERT B

level part of the prison, including family visits, which are attended to keep family ties strong and to assist the prisoner reentry into the family and community.

In sum, the executive's implementation of the parole system in California has turned upside down the legislative contemplation that murderers normally be found suitable for parole at their earliest parole suitability hearing, which is to be held 13 months before the prisoner becomes eligible for parole (Cal. Penal Code § 3041(a)), and released at a time proportionate to the individual's culpability. Instead of honoring the legislative mandate to normally parole murderers, the BPH had arbitrarily established a policy of almost never permitting parole to them. Consequently, Petitioner has not been afforded federal and state constitutional due process guaranties in the course of the executive's refusal to follow their own guidelines. (See Hicks v. Oklahoma (1980) 447 U.S. 343 [arbitrary deprivation of a state statute affecting life and liberty constitutes a violation of federal due process].)

"The measure of atrociousness is not general notions of common decency or social norms, for by that yardstick all murders are atrocious. ... 'All second degree murders by definition involve some callousness - i.e. lack of emotion or sympathy, emotional insensitivity, indifference to the feelings and suffering of others.' Rather, the inquiry is whether among murders the one committed by [the inmate] was particularly heinous, atrocious or cruel." In re Gray, 151 Cal.App.4th 379, 404 (2007), citing In re Lee, 146 Cal.App.4th 1400 (2006) (italics omitted).

California courts, interpreting the California parole suitability guidelines, have found decisions to deny parole unsupported by some evidence in cases where the petitioner perpetrated the killing on facts much worse

INSERT B

than this case. In each case, the petitioner acted out of emotional stress or others reasons that were more trivial than this case.

For example, In re Copper, supra, petitioner killed his wife with a sledgehammer by hitting her in the neck five or six times. She suffered for 20 to 30 minutes before she died. Cooper then hid the body and covered up his crime. Nonetheless, the Court of Appeal found that "some evidence" consistent with the California parole scheme did not support the decision denying suitability.

In In re Barker, 151 Cal.App.4th 346, 353-354, 372-375 (2007), Barker helped his friend kill his father and grandfather: the friend shot the father, who was watching television, in the head three times and shot the mother two times. The petitioner struck the grandfather on the head three or four times with a chisel and then shot him in the head with a rifle. Nonetheless, this was insufficient to support a finding of unsuitability. "Some evidence" did not support denial.

In In re Lawrence, 150 Cal.App.4th 1511, 1518-1519 (2007), the petitioner was convicted of first degree murder for killing her lover's wife by wounding her in the hand, arm, leg, and neck, and then stabbing her to death with a potato peeler. "Some evidence" did not support the decision denying suitability.

In In re Elkins, 144 Cal.App.4th 475, 480-481, 496-499 (2006), the petitioner beat a friend with a bat until he was dead. He did this while his friend was a sleep. He dumped the body down the side of hill. "Some evidence" did not support the decision denying suitability.

In In re Weider, 145 Cal.App.4th 570, 575-576 (2006), the petitioner killed his victim in the course of a suicidal rage in the middle of a bar and also shot two other patrons, one twice. Weider had gone out to his

INSERT B

truck and returned with a gun. Id. at 588-589 ("Weider's act of simply going out to his car to retrieve the murder weapon does not reflect the type of heinous, atrocious, or cruel behavior .... rationally indicat[ing] he will present an unreasonable public safety risk if released from prison."). "Some evidence" did not support the decision denying suitability.

In In re Lee, 143 Cal.App.4th at 140, the petitioner went to a restaurant to collect a payment and decided he would kill the debtor if he did not pay. When the debtor indicated he would not pay, petitioner fired five times, hitting the debtor twice, but also killed the debtor's wife by shooting her in the head. "Some evidence" did not support the decision denying suitability.

In each of these cases, California appellate courts have interpreted California law to require more evidence that a crime is especially heinous, atrocious or cruel, or exceptionally callous, when the commitment offense itself is the basis for a finding of unsuitability. "[W]here there is no convincing evidence that the state Supreme Court would decide differently, a federal court is obligated to follow the decisions of the state's intermediate appellate courts." Nelson v. City of Irvine, 143 F.3d 1196, 1206-1207 (9th Cir. 1998). Accord, Assurance Co. of America v. Wall & Associates LLC of Olympia, 379 F.3d 557, 560 (9th Cir. 2004). The California courts' authoritative interpretation of the parole standard governing petitioner's liberty interest refutes the Board's finding in this case.

The BPH may not replace the legal standards for parole with its own personal and political ones. (See, e.g., United States v. Lee (1882) 106 U.S. 196, 220.)

For the forgoing reasons, the Court should find that the BPH violated Petitioner's state and federal due process when it failed to follow its

INSERT B

own guidelines and instead based its decision to deny parole on the same  
~~factors that went into formulating the guidelines in the first place,~~  
deeming the guidelines as unconstitutionally vague as applied. The court  
should order the BPH to hold a new hearing within 30 days, follow its  
own guidelines, and set Petitioner's term within the guidelines set forth  
for second degree murder. (See Exhibit B, § 2403(c).)



INSERT C

## Ground 3

THE BOARD OF PAROLE HEARINGS' RELIANCE ON MULTIPLE VICTIMS WHERE INJURED OR KILLED AS A REASON TO DENY PAROLE FOR FOUR-YEARS VIOLATES THE STATE AND FEDERAL DOUBLE JEOPARDY AND PETITIONER'S DUE PROCESS BECAUSE PETITIONER HAS ALREADY RECEIVED AND SERVED SEPARATED TERMS FOR THE MULTIPLE-COUNTS. BY THE DOCTRINES OF RES JUDICATA AND COLLATERAL ESTOPPEL, THE BOARD IS PROHIBITED FROM USING MULTIPLE VICTIMS AS A REASON TO DENY PAROLE FOR MULTIPLE-YEARS.

On October 31, 1988, in the Los Angeles County Superior Court, a jury convicted Petitioner of second-degree, attempted murder, and attempted manslaughter. Petitioner was sentenced to a determinate term of 14 years and a consecutive, indeterminate term of 17 years-to-life.

On March 15, 1997, after serving his determinate sentence, Petitioner began to serve his 17 years-to-life sentence for the second degree murder. Petitioner's Minimum Eligible Parole Date ("MEPD") is set at March 15, 2007.

On April 19, 2006, pursuant to California Penal Code § 3041(a), Petitioner appeared before the Board of Parole Hearings ("BPH") and was denied parole for four years. In their decision, the BPH stated:

This is the inmate initial hearing. The District Attorney has indicated that five years is the appropriate denial time. I will indicate in a separate decision the hearing panel finds that the prisoner has been convicted of murder as well as attempted homicide and it is not reasonable to expect parole would be granted in the next four years. Sir I will tell you we had discussions about this particular area. But Mr. Sattris does indicate the obvious. You were not given the sentence of life without possibility of parole, you are attempting at this point and time to better yourself. I don't believe five years is appropriate. I think four years is the appropriate amount to get together the things that you need to get together.

(Exhibit A, HT 87.)

The California Code of Regulation Title 15 ("CCR-15") § 2407(b)(4) mandates that "If the court imposed consecutive nonlife sentences the Board shall not add an additional adjustment for the nonlife crime." CCR-15 § 2407(b)(5) states, "If the court imposes concurrent nonlife sentences, the board may add an adjustment because the prisoner has been convicted of more



than one crime. The suggested adjustment is the greater of: (A) Time served for the nonlife crime prior to reception on the life offense; or (B) One-half the determinate term imposed by the court; or (C) One-half the term that would be established under Section 2271(e) for crimes which carry a sentence of one year and one day." (Exhibit B, pp. 76-77.)

The record clearly shows that the BPH abused its discretion and violated Petitioner's rights to be free from double jeopardy or a dual use of the commitment offense. By the doctrines of res judicata and collateral estoppel, the BPH is precluded from reconsidering whether the gravity of Petitioner's nonlife offenses provides a basis for denying him parole. (See, e.g., U.S. v. Schwartz, 785 F.2d 673, 681-682 (9th Cir.).)

The Double Jeopardy Clause's prohibition against prosecution for same offense limits the power of a court, or parole board, to alter sentences. (See, e.g., U.S. v. Arrellano-Rios, 799 F.2d 520, 524-25 (9th Cir. 1986) [defendant who served one-year sentence for aiding and abetting drug crimes could not have sentence increased after related weapons conviction vacated nor could case be remanded to provide government with chance to increase sentence for aiding and abetting drug crime].)

For the foregoing reasons, the court should find that the BPH violated Petitioner's due process when it denied him parole for four years.

INSERT D

## Ground 4

PETITIONER WAS DENIED A FAIR AND IMPARTIAL PAROLE HEARING WHEN THE BOARD OF PAROLE HEARINGS RELIED ON OPPOSITION FOR PAROLE FROM THE DISTRICT ATTORNEY'S OFFICE AND VICTIM'S NEXT OF KIN AS A REASON TO FIND PETITIONER UNSUITABLE FOR PAROLE. THE VICTIM'S NEXT OF KIN'S FEELINGS, CONCERNS, AND OTHER STATEMENTS WERE ALREADY CONSIDERED DURING THE SENTENCE STAGE AND THEIR PRESENCE, ALONG WITH THE DISTRICT ATTORNEY'S OFFICE PRESENCE, CREATES A CONTAMINATION BY EXTRANEOUS INFLUENCES IN THE PAROLE PROCEEDINGS.

On October 31, 1988, in the Los Angeles County Superior Court, a jury convicted Petitioner of second-degree, attempted murder, and attempted manslaughter. After considering the statements from the District Attorney's office and victim's next of kin, the court sentenced Petitioner to a determinate term of 14 years and a consecutive, indeterminate term of 17 years-to-life.

On March 15, 1997, after serving his determinate sentence, Petitioner began to serve his 17 years-to-life sentence for the second degree murder. Petitioner's Minimum Eligible Parole Date ("MEPD") is set at March 15, 2007.

On April 19, 2006, pursuant to California Penal Code § 3041(a), Petitioner appeared before the Board of Parole Hearings ("BPH") and was denied parole for four years. In their decision, the BPH stated:

... [T]he panel notes opposition to your finding of suitability both from the District Attorney's office of Los Angeles County as well as the victim's next of kin. ... The district Attorney has indicated that five years is the appropriate denial time. I will indicate is a separate decision the hearing panel finds that the prisoner has been convicted of murder as well as attempted homicide and it is not reasonable to expect parole would be granted in the next four years. ...

(Exhibit A, HT 87.)

Petitioner has a right to a parole hearing by an impartial panel. The Board of Parole Hearings (BPH) has a the responsibility of protecting this right to ensure that the parole applicant receives a fair and impartial hearing.

Petitioner contends that he did not receive a fair and impartial hearing because the BPH was unfairly influenced by the District Attorney's office and victim's next of kin. The District Attorney's office and victim's next of kin will always oppose Petitioner's release.

A decision based on a few facts that will always form the basis for denying parole, amounting to a permanent and virtually automatic denial of parole in a contravention of due process, is clearly arbitrary and capricious. "The presence of a large measure of discretion in a parole system ... does not alter the fundamental due process limitation against capricious decision-making. A legislative grant of discretion does not amount to a license for arbitrary behavior. When the Parole Board bases its decision on factors that bear no rational relationship to rehabilitation or deterrence, it transgresses the legitimate bounds of its discretion." In re Fain (1983) 139 Cal.App.3d 295, 307 (quoting Block v. Potter (3rd Cir. 1980) 631 F.2d 233, 236-37).

The BPH systematically denies parole to all life prisoners by unreasonably finding that the release of almost every life prisoner would jeopardize public safety. The Board always gives a multiple year denial of parole when the District Attorney office or victim's next of kin opposes parole at the initial parole hearing. The Board almost never sets a parole date at the prisoner's initial hearing; rather, it repeatedly postpones the setting of a parole date for the overwhelming majority of prisoners, and rarely grants a life prisoner a parole date no matter how many times it considers the prisoner for release or how much time he has served. The BPH currently grants parole to a very small percentage of eligible lifers - and even more rarely to those who are from another country. (See, e.g., In re Rosenkrantz, supra, 29 Cal.4th at p. 685 [Board granted parole to murderers

INSERT D

1% of time in its last 4800 hearings].)

In sum, the BPH implementation of the parole system in California has turned upside down the legislative contemplation that murderers normally be found suitable for parole at their earliest eligibility and released at a time proportionate to the individual's culpability. Instead of honoring the legislative mandate to normally parole murderers, the executive has arbitrarily established a policy of almost never permitting parole to them, especially if the District Attorney's office or next of kin opposes parole. Consequently Petitioner has not been afforded federal and state constitutional due process guaranties in the course of the executive's refusal to grant parole to those who have opposition for parole. (See Hicks v. Oklahoma (1980) 447 U.S. 343 [arbitrary deprivation of a state statute affecting life or liberty constitutes a violation of federal due process].) The implementation of the parole law by the executive branch in a manner that disregards both the spirit and the letter of the law also arbitrarily violates the separation of powers doctrine contained in California Constitution, article III, section 3. Finally, an executive practice of parole denial that imposes greater punishment on a prisoner ex post facto violates his right to due process of law. (See, e.g., Young v. Weston (9th Cir. 1999) 176 F.3d 1196 [although law may not be ex post facto on its face, it can be ex post facto as applied]; Rogers v. Tennessee (2001) 532 U.S. 451 [149 L.Ed.2d 697, 121 S.Ct. 1693] [retrospective change in law detrimental to criminal defendant effected by other than legislative/regulatory means implicates due process].)

The contemporary and historical recidivism rate for murderers paroled in California historically is about 2%; the recidivism for other felons paroled in California has been as high as 70% - the highest in the nation. Prisoners as old as Petitioner, particularly after service of long prison

INSERT D

terms, virtually never return to prison after they parole. The various life prisoners who have been paroled, whether by court order or otherwise, overall have performed admirably well on parole and demonstrate that the BPH's refusal to grant parole have needlessly caused excessive imprisonment that not only retarded the prisoners' continued rehabilitation and imposed gratuitous pain and suffering on them and their loved ones at a time when the prison system is in crisis due to over-population, but have done considerable damage to the public fisc - all without any measurable increase to public safety and in fact contrary to the interest in public safety.

For the forgoing reasons, Petitioner prays that the Court declare the rights and duties of the parties; grant equitable relief, which requires the BPH to conform their practice of holding parole hearings to the dictates of section 3041 and all statutory, regulatory and constitutional requirements as set forth in the decision of the courts; and all other relief necessary to promote the ends of justice.

**EXHIBIT F**

S157586

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

---

In re ALFONSO CARRANZA on Habeas Corpus

---

The petition for writ of habeas corpus is denied.

George, C. J., was absent and did not participate.

Werdegar

---

Acting Chief Justice